

VOLUME TWO OF TWO

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Oconee County

Honorable Edgar W. Dickson, Circuit Court Judge

DENNIS M. TEMPLE,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2016-002254

APPENDIX

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1 Q. And the C.S.C. kit, S.L.E.D. Item 1, was that the
2 victim's blood originally?

3 A. Yes.

4 Q. And what was your particular role in processing
5 S.L.E.D. Item 1, the victim's blood?

6 A. As a technician within the D.N.A. department, I'm
7 the first line of getting evidence, and if any case comes
8 in with the liquid blood standard, that is part of my job
9 duties is to stabilize it so when a case can be assigned,
10 the analyst doesn't have to worry about it, it's already
11 done.

12 Q. The blood is stabilized for analysis?

13 A. Yes.

14 Q. So you would only actually process a blood portion
15 of S.L.E.D. Item Number 1?

16 A. Right. I sub itemize and I created 1.1. 1.1 is
17 the blood standard from the C.S.C. kit.

18 Q. And you followed S.L.E.D. policies and procedures
19 to make sure the item was not contaminated?

20 A. Yes.

21 Q. Once you completed your task regarding the C.S.C.
22 kit, S.L.E.D. Item 1, what did you do with the item?

23 A. After it was stabilized, the next day I repackaged
24 the blood standard into a coin envelope and then it's put
25 back into the C.S.C. kit, and heat-sealed the heat-sealed

1 pouch and put my initials on it.

2 Q. And the entire C.S.C. kit, where was it stored?

3 A. It was stored in a secure area within the D.N.A.
4 department and it was the location D.N.A. storage drawer
5 30-A.

6 Q. And who ultimately retrieved the item, Item 1,
7 from D.N.A. storage 3-A?

8 A. D.N.A. analyst Amanda Webb.

9 Q. And do you know when that occurred?

10 A. According to my chain, she took custody of it on
11 June 22nd, 2010.

12 Q. Other than developing the blood sample that we
13 discussed, did you alter or tamper with or contaminate
14 the C.S.C. kit, S.L.E.D. Item 1, in any way?

15 A. No.

16 Q. And your records do not indicate that anyone else
17 had access to -- anyone else had S.L.E.D. Item 1 while it
18 was in your custody, control or possession?

19 A. Correct.

20 Q. Did you receive S.L.E.D. Item 6 in this case, the
21 defendant's blood sample?

22 A. Yes, I did.

23 Q. When did you receive that?

24 A. I took custody of it on September the 27th, 2010.

25 Q. From whom?

1 A. It was in a storage location within the D.N.A.
2 department and the location was, is D.N.A. 3rd.

3 Q. From D.N.A. storage 3rd?

4 A. Yes.

5 Q. Did you label or mark or otherwise notate in the
6 computer when you received that item?

7 A. Yes. It's when I transferred it to me, it became
8 time-stamped, that it went from location D.N.A. 3rd to my
9 custody on September the 27th, 2010, at 10:19 a.m.

10 Q. Again, what was your particular role with S.L.E.D.
11 Item 6?

12 A. Again, in this case a liquid blood standard was
13 sent in, and I went through our policies to stabilize the
14 liquid blood to make it a dry blood standard so it could
15 be analyzed at a later date.

16 Q. And you followed S.L.E.D. policies and procedures
17 to ensure the item was --

18 A. Yes.

19 Q. When you completed your task regarding
20 stabilization of the blood of S.L.E.D. Item 6, what did
21 you do with the item?

22 A. At this time it was still in my custody, and
23 before I could move it to the secure location, Amanda
24 Webb came and she personally took it from me and we did
25 it in the computer and personally she took custody of it

1 on October the 1st, 2010, at 9:30.

2 Q. You directly transferred S.L.E.D. 6 to Amanda
3 Webb?

4 A. Yes.

5 Q. Do the records indicate that anyone else had
6 access to Item 6 during your possession for processing up
7 until the time it was transferred?

8 A. No.

9 MS. SIMMONS: Please answer any questions the
10 Defendant may have.

11 THE WITNESS: Okay.

12 THE COURT: Yes, sir.

13 CROSS-EXAMINATION BY MR. TEMPLE:

14 Q. Ms. Brown, is it true that you received Item
15 Number 1 on September --

16 A. What item are you referring to, sir?

17 Q. Item Number 1.1.

18 A. Item 1.1 was created by me.

19 Q. The blood standard from --

20 A. From the C.S.C. kit.

21 Q. Okay. So did you also receive -- is it true that
22 you also received blood standards from the Defendant,
23 Dennis Temple?

24 A. Could you tell me what item number you are
25 responding about?

1 Q. Item Number 6.

2 A. Yes, sir.

3 Q. Did you do any type of test to those items?

4 A. No test was performed, just stabilized the blood
5 standards.

6 Q. After your stabilizing, did you pass them on to,
7 pass both items on to the next person, Amanda Webb?

8 A. Item Number 6 was passed to Amanda Webb, but Item
9 Number 1 and 1.1 was put in a storage drawer.

10 Q. How long did they stay there, ma'am?

11 A. I put the evidence, item 1 and 1.1, which is both
12 in the same heat-sealed pouch, transferred it to D.N.A.
13 storage drawer 3-A on 6-8-2010, and D.N.A. Analyst Amanda
14 Webb took custody of it on June 22nd, 2010.

15 Q. So, according to the department storage drawer in
16 which the item number 1 was received and, on 6-8-2010,
17 and the date that the Forensic Scientist, Amanda C. Webb,
18 received this item was 14 days? Is that true?

19 A. When are you talking, when it first come in the
20 door or when I had it?

21 Q. When it was stored. You had it on 5-28?

22 A. Yes.

23 Q. Item Number 1?

24 A. It stayed in my custody from 5-28 until I
25 transferred it to D.N.A. storage drawer 3-A on 6-8-2010.

1 Q. Okay. According to your records, though, how long
2 did it stay in that storage room?

3 A. It was scanned into the drawer and physically put
4 into the drawer on 6-8-2010, and D.N.A. Analyst Amanda
5 Webb put it in her custody on 6-22nd, 2010.

6 Q. My question is, so did it stay in the drawer
7 during that time, the whole time?

8 A. From the 6-8 to the 6-22 it stayed in the drawer,
9 that particular storage drawer in a secure location
10 within the D.N.A. department.

11 Q. So how many days was that, Ms. Brown?

12 A. Eight, 16 -- 12 days.

13 Q. 12 days. Then after 12 days the Forensic
14 Scientist, Amanda C. Webb, received it. Did you do any
15 other tests to it?

16 A. No, I did not.

17 Q. What about Item Number 6?

18 A. I took custody of it on September the 27th, 2010.

19 Q. So, so who was it sent to at the -- well, what did
20 you do to it while you had it?

21 A. While it was in my custody, I prepared it through
22 S.L.E.D. and D.N.A. policies and procedures to stabilize
23 the liquid blood to a dry form.

24 Q. And you did no further tests to it?

25 A. No.

25 (Whereupon, the witness was excused.)

1 **THE COURT:** Have you got someone else you can fit
2 in, you think?

3 **MS. SIMMONS:** Our last law enforcement witness is
4 Sergeant Patrick Merck. I anticipate he will be in the
5 30-minute range.

6 **THE COURT:** Y'all come over here a minute.

7 (Discussion at sidebar.)

8 **THE COURT:** All right. You can call your next
9 witness.

10 **MS. SIMMONS:** The State calls Sergeant Patrick
11 Merck.

12 Whereupon,

13 Patrick Merck,
14 after first having been duly sworn, testified as follows:

15 DIRECT EXAMINATION BY MS. SIMMONS:

16 Q. Sergeant Merck, where are you employed?

17 A. The Oconee County Sheriff's Office.

18 Q. How long have you been in law enforcement?

19 A. Almost 19 years.

20 Q. What do your job duties entail currently?

21 A. I am currently assigned to the Evidence and Crime
22 Scene Division.

23 Q. And how long have you been there?

24 A. Approximately 12 years.

25 Q. Does part of your job involve evidence collection

1 and evidence transport to S.L.E.D.?

2 A. Yes, ma'am.

3 Q. What procedures are in place within your
4 department at the Sheriff's Department to ensure that
5 evidence is handled in an efficient and appropriate way
6 and is not contaminated?

7 A. We've, any time we are handling evidence we wear
8 gloves. Plus, also everything is sealed and remains in a
9 sealed state.

10 Q. Were you dispatched to a call on May 9th or
11 10th -- on May 10th, actually, 2010, regarding a rape and
12 kidnapping at All Safe Storage in Seneca, South Carolina?

13 A. Yes, ma'am.

14 Q. And All Safe is in Oconee County?

15 A. Yes, ma'am.

16 Q. What time did you first receive your call
17 regarding this incident?

18 A. Approximately 2:30 a.m. on the 10th.

19 Q. Where did you go first?

20 A. I first went to the Oconee Medical Center.

21 Q. What did you do at the Oconee Medical Center?

22 A. I met with Lieutenant Reed, and he advised me of
23 what the situation was. I waited for the victim to have
24 the evidence collection kit performed, and then
25 photographed the victim's injuries and wounds.

1 Q. And those photographs have been previously
2 introduced into evidence?

3 A. Yes, ma'am.

4 Q. Did you later have occasion to execute two search
5 warrants on the Defendant's storage unit, unit 193?

6 A. Yes, ma'am.

7 Q. When did you do that?

8 A. The first one was on May 10th and the second on
9 May 11th of 2010.

10 Q. Describe what you found at the storage units when
11 you executed the search warrant.

12 A. On May 10th I found -- actually, I collected some
13 sheets, found the storage unit itself kind of in
14 disarray. There was what appeared to be a bed in the
15 storage unit. On top of the bed, sheets, torn pieces of
16 sheet, some tied together.

17 Around the walls of the storage unit appeared to
18 be just various items stacked and stored. Shoes,
19 personal documents, things of that nature.

20 Q. Do you recall the color of the sheets that you saw
21 in the storage unit?

22 A. Pink and white, I believe.

23 Q. Is the physical evidence you personally saw
24 consistent with the information you were provided by the
25 victim?

1 A. Yes, ma'am.

2 Q. Did you see cleaner within the storage unit?

3 A. Yes, ma'am.

4 Q. Did you see a bottle within the storage unit?

5 A. Yes, ma'am.

6 Q. Where was the bottle located?

7 A. The bottle was located in what appeared to be a
8 five-gallon bucket on the, put in what was a makeshift
9 bed on the left side of that bed, and it was kind of up
10 against the wall.

11 Q. Was the cleaner near the bucket?

12 A. Yes, ma'am.

13 Q. Did you see bindings or strips of sheets?

14 A. Yes, ma'am.

15 Q. Sergeant Merck, I'm going to show you what has
16 been previously marked State's Exhibits 62 and 63. Were
17 these items personally collected by you?

18 A. Yes, ma'am.

19 Q. Tell me a little bit about the sealing and taping
20 process when you are dealing with it.

21 A. On each, each item of evidence, depending on what,
22 what type of evidence it is, I place it into a container,
23 seal that container, and log it in and it remains in that
24 sealed state. These particular items, the torn pieces of
25 sheets, I just placed in a plain brown paper bag, labeled

1 the bag, and then sealed the bag itself.

2 Q. Could you open those items and show them to the
3 jury?

4 A. Okay.

5 Q. And, Sergeant Merck, have those items been in your
6 care, custody and control the entire time they have been
7 in evidence?

8 A. Yes, ma'am.

9 Q. And are they in substantially the same condition
10 they were in when you collected them?

11 A. Yes, ma'am.

12 MS. SIMMONS: Judge, we would move State's Exhibits
13 62 and 63 into evidence, and the Defendant was provided
14 access to these items on December 1st.

15 THE COURT: All right. Any objection to the
16 admission of these items?

17 THE DEFENDANT: No, Your Honor.

18 THE COURT: All right. Without objection.

19 (State's Exhibits 62 and 63 were received in
20 evidence.)

21 BY MS. SIMMONS:

22 Q. Do you recognize -- these items, where did you
23 find them?

24 A. These particular pieces were on the floor inside
25 unit 193, beside, beside the bed in front of the door in

1 kind of a little hallway there.

2 Q. Again, consistent with the victim's statement?

3 A. Yes, ma'am.

4 Q. And can we open item 63, please?

5 A. Sure. (Witness puts cloths back in State's
6 Exhibit 62 and opens State's Exhibit 63 and removes cloth
7 pieces.)

8 Q. Where were these items recovered, Item 63?

9 A. These were the items recovered outside of unit
10 193.

11 Q. And would these be consistent with the responding
12 officers' account of what happened?

13 A. Yes, ma'am.

14 Q. Thank you, Sergeant Merck.

15 A. (Places items back in bag.)

16 Q. Did you also find socks during your processing of
17 the Defendant's unit, 193?

18 A. Yes, ma'am.

19 Q. And why were you looking for socks?

20 A. It was told to the investigators that socks had
21 been placed in the victim's mouth to gag her.

22 Q. Were you also looking for a belt during your
23 search?

24 A. Yes, ma'am.

25 Q. I show you what has been marked as State's Exhibit

1 56. Is this the item you recovered from the Defendant's
2 storage unit?

3 A. Yes, ma'am, it is.

4 Q. Is it substantially, other than the markings
5 notated by S.L.E.D., in the same condition as when you
6 found it, and do you recognize it as the particular
7 leather belt that you recovered?

8 A. Yes, ma'am, I do.

9 MS. SIMMONS: Judge, we move into evidence State's
10 Exhibit 56.

11 THE COURT: Any objections?

12 THE DEFENDANT: Well, Your Honor -- no -- well, I
13 object. My previous argument in the suppression hearing.

14 THE COURT: Subject to those, I'll allow it to be
15 admitted. And your previous arguments are incorporated
16 into your objection.

17 THE DEFENDANT: Okay. Thank you, sir.

18 (State's Exhibit 56 was received in
19 evidence.)

20 BY MS. SIMMONS:

21 Q. Were you also looking for a head lamp when you
22 were processing the Defendant's storage unit?

23 A. Yes, ma'am, I was.

24 Q. I show you what's previously been marked as
25 State's Exhibit 55, and the Defendant was provided access

1 on December 1st of 2010. Do you recognize State's
2 Exhibit 55?

3 A. Yes, ma'am, I do.

4 Q. And tell me what that is and where you recovered
5 it.

6 A. This is a green and black small head lamp, and I
7 recovered it from unit 193. It was at the head of the
8 bed, on the top of the bed.

9 Q. During your processing of the unit, did you
10 observe any pink Nike shoes?

11 A. Yes, ma'am, I did.

12 Q. Were both shoes, that the victim said she was
13 wearing at the time of the attack, recovered from her
14 unit, unit 193?

15 A. That was my understanding. They were turned in to
16 me through the temporary storage.

17 Q. Did you take into evidence any, a washcloth in
18 this case?

19 A. Yes, ma'am, I did.

20 Q. Could -- describe the scene that you were
21 processing. I mean, was it a lot of clutter or was it
22 neat?

23 A. It was basically in disarray. There was a lot of
24 clutter, a lot of things stacked around, a lot of pieces
25 of torn sheets and sheets wrinkled up on the bed and on

1 the floor, also.

2 Q. Were there a lot of rags around?

3 A. Yes. Yes, ma'am.

4 Q. The washcloths that you recovered, could the
5 victim positively identify it?

6 A. No, ma'am.

7 Q. Did you also have occasion to take photographic
8 documentation of All Safe Storage unit number 193 on two
9 separate occasions?

10 A. Yes, ma'am, I did.

11 Q. Did this include the inside and the outside of the
12 unit?

13 A. Yes, ma'am.

14 Q. And have you previously looked at State's 35, 26,
15 37, 42, 38, 48, 49, 50, 34, 39, 40, 47, 46, 45, 44, 43,
16 52, 51 and 53 in this matter?

17 A. Yes, ma'am.

18 MS. SIMMONS: Judge, these have been previously
19 shown to the Defendant before this afternoon.

20 THE COURT: Any objections to these?

21 THE DEFENDANT: No, Your Honor.

22 THE COURT: All right. Without objection.

23 MS. SIMMONS: Judge, we would move all of these
24 items into evidence and ask that they be published to the
25 jury.

1 **THE COURT:** Any objection to that?

2 **THE DEFENDANT:** Well, I think I have a previous
3 objection to the...

4 **THE COURT:** You are protected there. Yeah. You are
5 protected there. I'll allow them into evidence.

6 (State's Exhibits Numbers 35, 26, 37, 42, 38,
7 48, 49, 50, 34, 39, 40, 47, 46, 45, 44, 43,
8 52, 51 and 53 were received in evidence.)

9 **BY MS. SIMMONS:**

10 Q. Sergeant Merck, since you processed this crime
11 scene, I'm going to show you these photos, and if you
12 could just describe what you're seeing.

13 A. Okay. That is basically the entranceway to unit
14 193. As I walked in, that was my path down, down the
15 little makeshift hallway there.

16 Q. And what is that on the floor?

17 A. That is the pieces of torn sheets that I
18 recovered.

19 **MS. SIMMONS:** Judge, let the record reflect that is
20 what has been admitted as State's 36.

21 **THE COURT:** All right.

22 **THE WITNESS:** That's merely a closer view of those
23 same torn sheets, kind of an overhead view.

24 **BY MS. SIMMONS:**

25 Q. Can you describe what area that is within the

1 unit? Is that your foot?

2 A. Yes, ma'am. That is my foot. That's basically
3 the floor and that's just like a little walkway.

4 MS. SIMMONS: And, Judge, so the record will
5 reflect, that was State's 35.

6 THE COURT: All right.

7 BY MS. SIMMONS:

8 Q. I'm now going to show you State's 37.

9 A. Okay. That, that is as I was entering unit 193,
10 you can see to the left in the photograph is the
11 mattresses blocking the doorway of unit 193. The bed is
12 extending to the right in the photograph. The green and
13 black head lamp is there in the middle of the head of the
14 bed, and the bed is extending to the right.

15 Q. Any other items recovered off the sheet that you
16 can see there?

17 A. The socks and the other shoes.

18 Q. I show you what has been admitted as State's
19 Number 42.

20 A. Those are the pink and white tennis shoes.

21 Q. Were they recovered within the unit?

22 A. Yes, ma'am. Or actually I didn't, didn't recover
23 those.

24 Q. Did you see them in the unit?

25 A. Yes, ma'am, I did.

1 Q. I show you what has been admitted as State's
2 Number 38. What do you see there?

3 A. That is inside unit 193. That's including the
4 bed. That is the five-gallon bucket with the cleaning
5 solution and the empty bottle inside the bucket.

6 Q. And showing you what has been admitted as State's
7 Number 48.

8 A. Okay. That is showing the hole in the side of the
9 mattress.

10 Q. And what has been admitted as State's 49, does
11 that provide a little bit better representation of what
12 you are describing as the hole in the mattress?

13 A. Yes, ma'am, it does.

14 Q. And is that consistent with the victim's
15 statement?

16 A. Yes, ma'am.

17 Q. To retrieve the items in the mattress, what did
18 you do?

19 A. In order to photograph those in place before
20 recovering those, we actually tore a hole in the box
21 spring to photograph the items still inside the box
22 springs.

23 Q. I'm showing you what's previously been admitted as
24 State's 50. Tell me what you see there.

25 A. That is the hole that we actually tore in the box

1 spring. It shows the metal hanger, a leather belt, and a
2 roll of electrical tape.

3 Q. And I'm showing you what has previously been
4 admitted as State's 34.

5 A. This also is just another photograph of the
6 entrance of 193 showing the torn sheets, the mattresses,
7 the bed, and the other items stacked in unit 193.

8 Q. Sergeant Merck, I'm showing you State's 39.

9 A. That is a little makeshift shelf along the back
10 wall of unit 193 that has toiletry items and things like
11 that.

12 Q. Personal hygiene items?

13 A. Yes, ma'am.

14 Q. And what has been admitted as State's 40?

15 A. That is a black duffle-style bag inside unit 193
16 with one of the pink and white shoes inside of it.

17 Q. I'm showing you what has been previously admitted
18 as State's 51.

19 A. That is a photograph I took inside the evidence
20 department in the lab area. As I, in order to submit the
21 socks to S.L.E.D., I actually removed them from the
22 sheets and packaged them separately, and that is the
23 photograph I took prior to repackaging the three socks.

24 Q. And showing you State's 52.

25 A. That's just a close-up of those three socks.

1 Q. And showing you State's 47.

2 A. That is inside unit 193 showing some business
3 cards of Dennis Temple.

4 Q. And did you also take those business cards into
5 evidence?

6 A. I took one of those, yes, ma'am.

7 Q. Do you have it with you today?

8 A. Yes, ma'am. It is actually in the box of items I
9 have back there.

10 MS. SIMMONS: Judge, may I?

11 THE COURT: Sure.

12 THE WITNESS: It should be in a small brown manila
13 envelope.

14 MS. SIMMONS: I'll move on until they find it. How
15 about that?

16 BY MS. SIMMONS:

17 Q. Sergeant Merck, showing you what has been admitted
18 as State's Number 46. What is that?

19 A. That is a piece of mail inside unit 193 bearing
20 the name of Dennis Temple.

21 Q. I'm showing you what has been admitted as State's
22 45. Can you tell me what that is?

23 A. That is another document found inside unit 193
24 also bearing the name of Dennis Temple.

25 Q. I'm showing you what has been marked as State's

1 44. If you would tell me what that is?

2 A. Also another piece of mail inside unit 193 bearing
3 the name of Dennis Temple.

4 Q. I'm showing you State's Number 43.

5 A. Also another document bearing the name of Dennis
6 Temple inside 193.

7 Q. And back to what's been previously admitted as
8 State's Number -- the photograph which has previously
9 been admitted as State's 47, did you actually collect
10 that item?

11 A. Yes, ma'am, I did.

12 MS. SIMMONS: Beg the Court's indulgence for one
13 moment.

14 (State's Exhibit 64, business card of Dennis
15 Temple, was marked for identification.)

16 BY MS. SIMMONS:

17 Q. Sergeant Merck, I'm showing you what's been marked
18 for identification purposes as State's Exhibit 64.

19 THE COURT: Any objection?

20 THE DEFENDANT: No, Your Honor.

21 (Received in evidence was State's Exhibit
22 64.)

23 BY MS. SIMMONS:

24 Q. Could you open that item and explain to me what
25 that is?

1 A. It is a business card with the name Global
2 Providers, bearing the name of Dennis Temple. It has a
3 phone number, email address, and some products that he
4 was currently offering.

5 MS. SIMMONS: Your Honor, may I publish this to the
6 jury?

7 THE COURT: Yes, ma'am.

8 BY MS. SIMMONS:

9 Q. Sergeant Merck, reading that card, is it referring
10 to shoes?

11 A. Yes, ma'am, it does.

12 Q. Thank you. And all of the photographs and the
13 items that we observed, all of these things were
14 personally observed by you in your processing of unit
15 177 -- I mean 193?

16 A. Yes, ma'am.

17 Q. Did you also have occasion to take one photograph
18 of the victim's unit, number 53, State's Number 53?

19 A. Yes, ma'am.

20 MS. SIMMONS: Judge, this has also been previously
21 provided to the Defendant.

22 THE DEFENDANT: Yes, Your Honor. That's my previous
23 objection.

24 THE COURT: All right. Subject to previous
25 objection, it's admitted.

1 (State's Exhibit 53 was received in
2 evidence.)

3 BY MS. SIMMONS:

4 Q. I'm just gonna show you State's Number 53 which
5 has now been admitted. What do you see here?

6 A. It's a pair of glasses that I was told was the
7 victim's broken glasses.

8 Q. They were found inside her unit?

9 A. Inside 177, yes, ma'am.

10 Q. And when you found them, were they broken?

11 A. Yes, ma'am.

12 Q. Sergeant Merck, did you also process the victim's
13 car in this case when it was recovered?

14 A. Yes, ma'am, I did.

15 Q. I'm gonna show you 7, 8, 9 and 10.

16 MS. SIMMONS: Judge, these have been previously
17 shown to the Defendant.

18 BY MS. SIMMONS:

19 Q. Are these a fair and accurate representation of
20 the vehicle as you processed it on what date?

21 A. Yes, ma'am. And I processed it on May 11th, 2010.

22 Q. And you can testify about the appearance of the
23 inside and the outside of the vehicle?

24 A. Yes, ma'am.

25 MS. SIMMONS: Judge, we would move these items into

1 evidence.

2 THE COURT: Any objection to those, subject to the
3 same...

4 (Ms. Simmons shows State's Exhibits 7, 8, 9
5 and 10 to Mr. Temple).

6 THE DEFENDANT: Did I previously object to them? I
7 don't think so.

8 THE COURT: Okay. Without objection.

9 THE DEFENDANT: Your Honor, I object. Disclosure
10 violation.

11 THE COURT: All right.

12 BY MS. SIMMONS:

13 Q. Number 7. Tell me what you see.

14 A. It is the victim's vehicle. The tag number did
15 come back to the victim's name and address.

16 Q. State's Number 10?

17 A. That is the back seat area. That is a piece of
18 metal art in the back seat.

19 That is the front passenger's side floorboard
20 showing the camouflage hood and pair of gloves.

21 Q. Were those items collected by you for evidence
22 processing?

23 A. Yes, ma'am.

24 Q. And Number 9?

25 A. That is the trunk of the vehicle.

1 Q. Are all the photographs that we looked at
2 consistent with the statement and the investigation?

3 A. Yes, ma'am.

4 Q. Did you also have occasion to take in items of
5 physical evidence in this case during your processing of
6 the crime scene?

7 A. Yes, ma'am, I did.

8 Q. What items of evidence did you receive -- did you
9 retrieve and take into your custody from the victim's
10 recovered vehicle?

11 A. The hood, the gloves, and I think those were the
12 main items.

13 Q. Did you receive the C.S.C. kit in this case which
14 has been previously referred to as S.L.E.D.'s 1?

15 A. Yes, ma'am, I did.

16 Q. When did you receive it?

17 A. That was on May 13th.

18 Q. Who did you receive it from?

19 A. I received it actually from temporary storage, a
20 refrigerated locker inside the evidence department.

21 Q. And who had placed it in temporary storage?

22 A. Brian Danielson.

23 Q. Okay. Has anyone altered or bothered that item
24 since it was placed there by Deputy Danielson?

25 A. No, ma'am.

1 Q. What did you do with the item once you retrieved
2 it?

3 A. Once I retrieved it, it was logged in to the
4 evidence department and I placed it in refrigerated
5 storage inside of the evidence department.

6 Q. Did you later retrieve that item from your secure
7 storage facility and take it to S.L.E.D.?

8 A. Yes, ma'am, I did.

9 Q. And when did you do that?

10 A. That was May 27, 2010.

11 Q. And S.L.E.D. heat-sealed it?

12 A. Yes, ma'am.

13 Q. Was it received by them in your presence and
14 sealed by them in your presence?

15 A. Yes, ma'am, it was.

16 Q. Who did you leave it with at S.L.E.D?

17 A. Doris Yarbrough.

18 Q. Pursuant to a Court Order was a blood sample in
19 this case collected from the Defendant on September 22nd,
20 2010, which has been referred to thus far as S.L.E.D. 6?

21 A. Yes, ma'am.

22 Q. Where was that sample taken?

23 A. The sample was collected inside the courtroom in
24 the Oconee County Courthouse.

25 Q. Who drew that sample?

1 A. Christie Shiflett, a nurse with the Oconee County
2 Detention Center, drew that blood.

3 Q. Were you present the entire time that she drew
4 that blood from the Defendant?

5 A. Yes, ma'am.

6 Q. Was the blood immediately transferred to you?

7 A. Yes, ma'am, it was.

8 Q. And what did you do with it?

9 A. I immediately took it to the Oconee County Law
10 Enforcement Center, logged it in to evidence and placed
11 it in refrigerated storage.

12 Q. Is that a secure facility?

13 A. Yes, ma'am, it is.

14 Q. Did you later retrieve what is identified as the
15 Defendant's sample, S.L.E.D. 6, and take it to S.L.E.D.?

16 A. Yes, ma'am, I did.

17 Q. When was it taken to S.L.E.D.?

18 A. September 23rd, 2010.

19 Q. Who did you leave it with at S.L.E.D.?

20 A. Nikki Perry.

21 Q. And was that sealed and received in your presence?

22 A. Yes, ma'am, it was.

23 Q. Did you alter, destroy or tamper with that item in
24 any way?

25 A. No, ma'am, I did not.

1 Q. What date did you recover a pair of gloves from
2 the victim's car?

3 A. The gloves were recovered on May 11th, 2010.

4 Q. That is what is being referred to thus far as
5 S.L.E.D. 8. What did you do with the gloves when you
6 recovered them?

7 A. I took them back to the Law Enforcement Center,
8 logged them in, and put them in storage in the evidence
9 department.

10 Q. Is that a secure facility?

11 A. Yes, ma'am, it is.

12 Q. Did you later retrieve the gloves and take them to
13 S.L.E.D.?

14 A. Yes, ma'am, I did.

15 Q. Did you alter or tamper with them in any way on
16 the way to S.L.E.D.?

17 A. No, ma'am, I did not.

18 Q. Who did you leave the gloves with?

19 A. With Selena Kinard in S.L.E.D.

20 Q. Was that heat-sealed and received in your
21 presence?

22 A. Yes, ma'am, it was.

23 Q. What date was the belt recovered from the bed
24 inside the Defendant's storage unit?

25 A. That was also May 11th, 2010.

1 Q. What did you do with the belt when you recovered
2 it?

3 A. Packaged it and took it back to the Law
4 Enforcement Center, logged it in and placed it in
5 storage.

6 Q. Was the belt later transported to S.L.E.D.?

7 A. Yes, ma'am, it was.

8 Q. Did you tamper, alter or destroy that item in any
9 way?

10 A. No, ma'am, I did not.

11 Q. Who did you leave it with at S.L.E.D.?

12 A. Selena Kinard, also.

13 Q. The socks that were recovered from 193 that we
14 just looked at the pictures, when did you recover them?

15 A. Actually, we recovered those on May 10th, 2010.

16 Q. Where did you store them once you recovered them?

17 A. Inside the Oconee County Evidence Department.

18 Q. Again, in a secure facility?

19 A. Yes, ma'am.

20 Q. Did you later retrieve the socks which later
21 became known as S.L.E.D. 9 and take them to S.L.E.D.?

22 A. Yes, ma'am, I did.

23 Q. Did you alter, tamper with or destroy them in any
24 way on the way to S.L.E.D.?

25 A. No, ma'am, I did not.

1 Q. Were they received and heat-sealed and initially
2 processed in your presence?

3 A. Yes, ma'am, they were.

4 Q. Were all items that were tested at S.L.E.D.
5 returned to you after testing?

6 A. Yes, ma'am.

7 Q. Have those items been in your care, custody and
8 control since that time?

9 A. Yes, ma'am.

10 Q. During the times that the items of evidence have
11 been in your care, custody or control, have you altered,
12 tampered with or destroyed these items in any way?

13 A. No, ma'am, I have not.

14 Q. Have you taken appropriate steps to ensure the
15 integrity of the evidence preservation in this matter?

16 A. Yes, ma'am.

17 MS. SIMMONS: Please answer any questions the
18 Defendant might have.

19 THE WITNESS: Yes, ma'am.

20 THE COURT: Y'all come over here a moment.

21 (Discussion at sidebar.)

22 THE COURT: All right, ladies and gentlemen. We'll
23 break for today and we'll resume questioning tomorrow.
24 As I said, please don't discuss this case, please don't
25 read, listen to or watch anything concerning this case on

1 TV, including radio or the papers. I don't see any point
2 in hiding from you the fact that there is publicity about
3 it. So please don't look at it. You can save
4 everything, have somebody save it for you and you can
5 look at it later in the week.

6 All right. We'll see you tomorrow. And the way we
7 are moving, it's possible we will finish this case
8 tomorrow or at least give it to you tomorrow. So we'll
9 do our best. See you tomorrow morning at 10:00.

10 (Whereupon, the jury left the courtroom at
11 approximately 5:09 p.m.)

12 THE COURT: All right. See you all tomorrow
13 morning.

14 MS. SIMMONS: Thank you, Judge.

15 (Whereupon, the trial of the *State of South*
16 *Carolina v. Dennis Temple* adjourned on
17 December 14, 2010, at approximately 5:10
18 p.m., to resume on Wednesday, December 15,
19 2010, at approximately 10:00 a.m.)

20 ***

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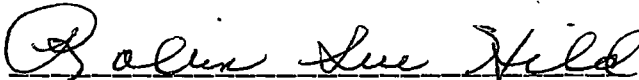
25

Certificate of Court Reporter

I, the undersigned, Robin Sue Hild, FCRR, RPR, Official Court Reporter for the Tenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Oconee County, South Carolina, on the 14th day of December, 2010.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

August 27, 2010


Robin Sue Hild, FCRR, RPR
Circuit Court Reporter

State of South Carolina	)	In the Court of General
	)	Sessions
County of Oconee	)	Indictments Nos:
	)	
	)	2010-GS-37-00886, 00887,
	)	00888, and 00889

State of South	)	
Carolina,	)	
	)	Transcript of Record
Plaintiff,	)	Trial -- Volume 3
	)	Pages 336 through 459
-vs-	)	
	)	
Dennis Temple,	)	
	)	
Defendant.	)	

December 15, 2010
Walhalla, South Carolina

B E F O R E:

THE HONORABLE J. CORDELL MADDOX, JR., JUDGE; AND A
JURY.

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1	EXHIBITS	
2		
3	NUMBER AND DESCRIPTION	ID. /EV.
4	Defendant's Exhibit Number 1, rag	364/351
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1 ** Start of Requested Certified Transcript of Record **

2 (Whereupon, the trial of the *State of South*
3 *Carolina versus Dennis Temple* resumed on
4 Wednesday, December 15th, 2010, at
5 approximately 10:50 a.m., day three of three
6 days.)

7 **THE COURT:** I've got a note from a juror that
8 (reading):

9 At the last break before leaving court yesterday the
10 jurors were frustrated and started to mumble things under
11 their breath. No deliberations have taken place.
12 However, further admonition may be necessary so that no
13 jurors talk about the case.

14 I'll take care of that.

15 Anything we need to take up before we start?

16 **MS. ADAMS:** No, sir. Your Honor, would you like
17 Patrick Merck to take the stand?

18 **THE COURT:** Yes, ma'am.

19 (Marked for identification was Court's
20 Exhibit 4-T, note from Juror Foreman.)

21 (Whereupon, the jury entered the courtroom at
22 approximately 10:53 a.m.)

23 **THE COURT:** All right. Ladies and gentlemen, first
24 let me tell you that the reason we're late this morning
25 is again my fault. I had some matters I had to take care

1 of other than this case. But all the parties have been
2 sitting here waiting on me and I apologize for that.

3 The other thing is I have a note from the jury that,
4 I don't want to read the whole thing, but the gist of it
5 is that some of the jurors may be getting a little
6 frustrated and there has been some indication that there
7 was some mumbling under your breath, whatever. Just make
8 sure, ladies and gentlemen, that you don't deliberate on
9 this case amongst yourselves. Please keep any thoughts
10 you might have to yourself. And, as I said earlier, you
11 can form an opinion about the evidence as it's coming in,
12 but don't form an opinion about the whole case until you
13 have heard the whole case. And if there continues to be
14 a problem with it, I may have to take some action. But I
15 guess the bottom line is keep your thoughts to yourself
16 and don't talk to each other about it.

17 Again, there has been some publicity. I'm assuming
18 that nobody has read anything or watched anything on
19 television about this case. If that is not so, you need
20 to let me know just so I can resolve that issue, too. (No
21 response.)

22 All right. Yesterday we stopped after the direct so
23 we'll begin with the cross.

24 All right. Yes, sir.

25

1 CROSS-EXAMINATION BY MR. TEMPLE:

2 Q. Sergeant Patrick Merck, where are you employed?

3 A. The Oconee County Sheriff's Office.

4 Q. How long have you been employed there, sir?

5 A. At the Sheriff's Office itself, approximately a
6 little over 14 years.

7 Q. And do you have any type of special training or
8 skills in a particular field?

9 A. Yes, sir, I do, in crime scene and evidence,
10 various classes in each of those fields.

11 Q. On May the 10th, 2010, did you receive a call in
12 regards to a C.S.C., criminal sexual conduct crime?

13 A. Yes, I did.

14 Q. And who was that call from?

15 A. That was from our dispatch at the Sheriff's
16 Office.

17 Q. And were you deployed to a scene in reference to
18 this, this crime?

19 A. Yes. I was asked to respond to Oconee Medical
20 Center, initially to respond there.

21 Q. And that response was in reference to you doing
22 what?

23 A. I'm sorry, could you repeat the question?

24 Q. Was you instructed to do a specific thing while
25 you was there?

1 A. I was asked to respond to the Medical Center to
2 meet with investigators in reference to a C.S.C. case.

3 Q. While you was there, did you take pictures of
4 anybody?

5 A. Yes, I did.

6 Q. And who was that?

7 A. The victim.

8 Q. The victim in this case?

9 A. Yes, the victim.

10 Q. Is it also true, Sergeant Merck, that a search
11 warrant was issued in reference to a storage unit number
12 193 at All Safe Storage in Seneca?

13 A. Yes, sir, it is.

14 Q. Did you and other officers search and seize
15 evidence inside of this particular unit?

16 A. Yes, we did.

17 Q. Did you take any pictures while you was there?

18 A. Yes, I did.

19 Q. The search warrant that was in reference to this
20 search, did it describe particular things that you were
21 in, in this particular unit to be seized?

22 A. Yes, it did.

23 Q. Could you tell us what those things were? Do you
24 need a little help?

25 A. I would have to look at the search warrant.

1 Q. Okay.

2 THE DEFENDANT: Your Honor, may I present this
3 search warrant to him, please?

4 THE COURT: Sure.

5 MS. SIMMONS: Judge, the search warrant has already
6 been admitted. It's a Court's exhibit.

7 THE DEFENDANT: All right. They're admitted.
8 Which ones are they?

9 MS. ADAMS: I'll be happy to hand them to him.

10 THE DEFENDANT: For reference --

11 THE COURT: Hold on just a second. Let her hand it
12 to him.

13 MS. SIMMONS: Beg the Court's indulgence for one
14 moment.

15 Judge, for the record, the search warrants dealing
16 with the Defendant's unit are, have been previously
17 marked as Court's 2 and Court's 3, and I'm handing them
18 to Sergeant Merck.

19 THE COURT: All right.

20 BY MR. TEMPLE:

21 Q. Could you name those items on that search warrant
22 list, please, sir?

23 A. Yes. On Exhibit Number 2 is a search warrant
24 dated 5-10-2010. The description of property sought, as
25 stated on the search warrant, search to include but not

1 limited to any and all personal property items, papers,
2 fibers, blood, semen, clothing, shoes, and any other
3 photographic documentation.

4 Q. Those specific items that you, that was noted in
5 the search warrant, that were taken from the unit, do you
6 have a list?

7 A. Of the items actually taken?

8 Q. Yes.

9 A. On the search warrant is pieces of torn white
10 sheets. Number two is a purple washcloth. Number three,
11 one empty plastic bottle. Number four, one green and
12 black headlight. Number five, one black bag with
13 miscellaneous clothing items. Number six, the bed sheet
14 from the top of bed (two mattresses stacked with pieces
15 of torn bed sheets and socks). Number seven is one
16 business card. And number eight is photographic
17 documentation.

18 MS. SIMMONS: And, Judge, I'm going to object to
19 this line of questioning. I believe there's already been
20 a pretrial ruling on the validity of the search warrant.
21 I think we are just relitigating that issue.

22 THE COURT: What is your issue about the search
23 warrant?

24 THE DEFENDANT: This is not the search warrant. I'm
25 going into about his testimony yesterday in reference to

1 the search warrant. She just didn't mention the search
2 warrant, but everything that was seized --

3 THE COURT: Okay. I'll allow you a little leeway.
4 Make sure you don't talk -- I mean, I've ruled on the
5 search warrant. Just make sure you ask some questions
6 that are relevant.

7 THE DEFENDANT: Okay.

8 BY MR. TEMPLE:

9 Q. Sergeant Merck, could you please tell us about, a
10 little more about the water bottle and why it became an
11 item of interest in the search warrant?

12 A. The water bottle was based on the victim's
13 statements. It was an area that we focused on based on
14 the victim's statements.

15 Q. So that's why you seized it?

16 A. Yes.

17 Q. And it was, it was collected as evidence --

18 A. Yes, it was.

19 Q. -- by you?

20 And did you -- what happened after it was
21 collected?

22 A. After it was collected I logged it into evidence.
23 It was secured in Evidence at the Oconee County Sheriff's
24 Office, and later it was submitted to S.L.E.D. for
25 analysis.

1 Q. Sergeant Merck, I also notice you mentioned a
2 couple of washcloths on this list as well. Was it also
3 an item of interest?

4 A. Yes, it was.

5 Q. Where did you find this washcloth in the unit?

6 A. It was laying on top of the makeshift bed. As I
7 entered unit 193, it would have been on the right side of
8 the bed nearest to the entrance where I went in.

9 Q. Were there any other washcloths in that area?

10 A. There were numerous other pieces of cloth in 193.

11 Q. Why didn't you collect these?

12 A. This was one that was, again, based on witness
13 statements, or victim's statements, that closely fit the
14 description that was given by the victim.

15 THE DEFENDANT: Your honor, at this time I would
16 like to -- there is a purple washcloth, and marked as
17 item number --

18 THE COURT: What number is it?

19 THE DEFENDANT: Five.

20 MS. SIMMONS: Judge, I object. The victim cannot
21 identify this washcloth, and it was not even presented to
22 her by the Defense.

23 THE DEFENDANT: Your Honor, these were an item of
24 interest that were seized due to Officer Merck's
25 interpretation of the victim's statement which --

1 **THE COURT:** Ladies and gentlemen, I need to send you
2 out of the room. But please don't discuss the case.

3 (Whereupon, the jury left the courtroom at
4 approximately 11:05 a.m.)

5 **THE COURT:** What question do you want to ask him
6 about?

7 **THE DEFENDANT:** What question? This evidence is
8 damaging to the State. They don't want me to enter it
9 into evidence because of that fact. I want to enter it
10 into evidence on the Defense side.

11 **THE COURT:** So you want to introduce the blue cloth
12 that we discussed two days ago that was brought out here,
13 right? I mean, I'm just asking.

14 **THE DEFENDANT:** I'm entitled to --

15 **THE COURT:** I'm just asking: Is that what you want
16 to do?

17 **THE DEFENDANT:** Yes, sir.

18 **THE COURT:** Is there an objection to that?

19 **MS. SIMMONS:** Yes, Your Honor. The victim's
20 statement says a blue cleaning rag was used. The
21 washcloth we're talking about is a purple washcloth. If
22 he wanted to introduce this through this washcloth, he
23 would need to authenticate it through the victim as
24 identifying that this washcloth was the washcloth that
25 was used, and she can't identify it.

1 **THE COURT:** Was this something that this officer
2 collected?

3 **MS. SIMMONS:** He collected a washcloth, yes; but we
4 don't know if it was the one used.

5 **THE COURT:** I understand. But all he's trying to do
6 is introduce it into evidence. I think he can do that if
7 it was collected.

8 **MS. SIMMONS:** Judge, I want to make sure that he --
9 this officer did not do any testing on that washcloth, he
10 just collected it.

11 **THE COURT:** Right. All you can do --

12 **THE DEFENDANT:** I understand that --

13 **THE COURT:** Wait a minute -- let me -- all you can
14 do is introduce it. If he collected it, you can
15 introduce it, and it's in. And all he knows I assume is
16 that he collected the washcloths. I don't know anything
17 that would prevent him from introducing something that
18 was collected for his own purposes, whatever they are.
19 Okay.

20 **THE DEFENDANT:** Thank you, sir.

21 **MS. ADAMS:** Your Honor, if I may, that's fine as
22 long as he's not trying to say that this is the washcloth
23 that Catherine says was used on her.

24 **THE COURT:** And I don't know. I mean, I understand
25 why you are objecting, but I don't know where he's headed

1 yet. We'll have to deal with that when it comes up.

2 Yes, sir.

3 THE DEFENDANT: Your Honor, Sergeant Merck, a
4 14-year veteran, read the victim's statement, conducted a
5 search warrant and seized evidence in reference to the
6 victim's statement. He said he saw numerous washcloths
7 inside the unit.

8 THE COURT: I'll let you introduce it. But that's
9 all you can ask him, is: "Did you collect this?" "Why
10 did you?"

11 THE DEFENDANT: Yes, sir, I understand.

12 THE COURT: Okay. All right.

13 THE WITNESS: It's in the box, yes. The one
14 underneath it.

15 (The jury entered the courtroom at
16 approximately 11:08 a.m.)

17 THE WITNESS: Yes, that one, that one, the one
18 Philpott has. Yes, sir. Yes, sir.

19 (Discussion off the record.)

20 THE WITNESS: Do you want to maintain the chain on
21 this?

22 THE COURT: Yes. We'll maintain the chain, so he's
23 gonna -- of evidence.

24 Do you understand that, Officer? So that we can
25 track where everything has been, so he's just gonna be

1 careful.

2 THE WITNESS: (Nodded head.)

3 THE DEFENDANT: Okay.

4 THE COURT: Okay.

5 THE DEFENDANT: Yes, Your Honor, I would like to
6 enter that purple washcloth marked as item 5 and one
7 empty bottle, one empty plastic bottle, numbered as item
8 number 6, from the Oconee County Sheriff's Office
9 evidence collection log that was found, the washcloth was
10 found at the edge of the bed.

11 THE COURT: I understand.

12 Do you have the bottle?

13 THE WITNESS: Yes, sir. That's in that box right
14 there.

15 THE COURT: Do you have an objection?

16 MS. ADAMS: Your Honor, if he wants to talk about
17 the S.L.E.D. results of the washcloth and the bottle,
18 that's fine.

19 THE COURT: He's just going to introduce it.

20 MS. ADAMS: That's fine. I mean if he's -- okay.

21 THE COURT: All he's doing is introducing them. And
22 I'm gonna allow him to introduce them, because those were
23 two items that were mentioned on the search warrant.

24 All right. You want to introduce those into
25 evidence; is that correct?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: All right. I'll allow you to introduce
3 them. Go ahead. Do you have a question about them?

4 THE DEFENDANT: Yes, sir. If I'm not mistaken, if I
5 don't introduce them now, future reference to these items
6 is void. Am I correct? I mean, could I bring these
7 issues back up as evidence?

8 THE COURT: Yeah. Don't go there. No. You've
9 introduced them as Defense Exhibits Numbers, what, 1 and
10 2?

11 THE DEFENDANT: 5 and 6.

12 THE COURT: Okay. We'll sort that out at a break.
13 Don't open it yet.

14 You don't need him to open it. You just want it
15 introduced, right?

16 THE DEFENDANT: That's right.

17 THE COURT: Okay. And just leave it like that.

18 And just for the record, it's continued with its
19 chain of custody seal, so, all right, go ahead.

20 (Defendant's Exhibits 5, washcloth, and 6,
21 empty plastic bottle, were received in
22 evidence, later re-marked as Defendant's
23 Exhibits 1 and 2.)

24 BY MR. TEMPLE:

25 Q. So one empty plastic bottle, item number 6, was

1 found in a five-gallon bucket in the storage unit.

2 THE COURT: All right. Make sure you ask a
3 question.

4 THE DEFENDANT: Well, Your Honor, I was going
5 through the ritual of introducing --

6 THE COURT: It's in. You're done.

7 BY MR. TEMPLE:

8 Q. Well, Sergeant Merck, you also stated in -- is it
9 true that there was a black bag with a bunch of Nike shoe
10 boxes inside that bag when you searched the unit?

11 A. Yes, there was.

12 Q. Did you collect this black bag for evidence as
13 well?

14 A. The black bag that I collected was on the bed, and
15 it contained clothing items, including -- it's not the
16 bag that contained the shoes, this was a smaller bag on
17 the bed.

18 Q. There was also a reference in the victim's
19 complaint that there was a bag that was, contained Nike
20 shoe boxes. Did you collect this?

21 A. No, sir, I did not collect that one. It is in the
22 photographs, though. I did collect a black bag, but it
23 was a smaller black bag on the bed.

24 Q. So was the bag of shoes in -- was there any
25 fingerprinting taken of the shoeboxes inside the bag?

1 A. No, sir, I did not.

2 Q. Why not?

3 A. First of all, those type boxes are not very good
4 sources for fingerprints; and based on what we had
5 discussed, areas we wanted to concentrate on in the
6 storage unit, those areas were not checked.

7 Q. Within the victim's statement she stated that the
8 assailant packed the bag of shoes, the Nike shoeboxes,
9 and put them in a bag. If the assailant packed his bag,
10 he touched those shoeboxes. Those shoeboxes should have
11 contained some type of fingerprints. You didn't even
12 attempt to collect them?

13 A. At that time I was not aware of that. No, sir, I
14 did not check those boxes.

15 Q. In reference to the, to the search warrant, I
16 notice you also seized a belt. Did you put it in an
17 evidence log?

18 A. Yes, I did.

19 Q. For fingerprinting?

20 A. No, sir, not the belt.

21 Q. The belt was not fingerprinted?

22 A. No, sir. Basically a leather belt such as that
23 one cannot be fingerprinted.

24 Q. But it was sent to a forensics laboratory?

25 A. Yes, it was.

1 Q. Did you also, Sergeant Merck, do a collection of
2 evidence on the vehicle that was allegedly stolen?

3 A. Yes, I did.

4 Q. Did you dust for prints, fingerprints?

5 A. Yes, I did, on the exterior.

6 Q. Not in the interior?

7 A. On certain portions of the interior, most of the
8 interior of a vehicle is not a good source for
9 fingerprints based on the texture and the fabric. And
10 those areas are basically, you can't get a fingerprint
11 off cloth unless it's, has a solid finish to it.

12 Q. Sergeant Merck, what about the mirror and the
13 window, each side window of the vehicle? Did you dust
14 for prints the mirror, the glass, the window, the
15 console?

16 A. The mirror, yes, the mirror was checked. That is
17 one area that can be checked. But, like I said, there
18 are not many areas in a vehicle, based on the way they
19 are manufactured today, that you can recover identifiable
20 prints.

21 Q. But did you dust for prints on that mirror?

22 A. Yes, I did.

23 Q. You did?

24 A. On that, on the mirror, yes, I did.

25 Q. And the windows, on both sides of the front

1 windows?

2 A. I don't remember doing the windows. Those can be
3 checked visually for fingerprints. You don't necessarily
4 have to dust a piece of glass in order to find a
5 fingerprint. You can visibly see fingerprints on a piece
6 of glass.

7 Q. So no prints was found?

8 A. I did recover one print on the exterior back
9 windshield. They were not very good prints, though.
10 There was one left.

11 Q. Did you recover -- this, this cloth that belonged
12 to the victim, did you recover the fingerprints of the
13 victim on the cloth?

14 A. No, sir, I did not.

15 Q. So can you, can you tell us who was driving the
16 car, who had it, based upon the evidence you collected?

17 A. No, sir. I can't.

18 Q. You can't say for sure who was driving?

19 A. No, sir.

20 Q. What about the locks, Sergeant Merck, on the
21 storage shed; where they seized and -- in this case?

22 A. No, sir, they were not.

23 Q. No fingerprinting taken [sic] either, right?

24 A. No, sir. I did check the lock of the victim's
25 storage unit -- actually, I did not check that lock. At

1 that time I was told the officers had to actually touch
2 that lock in order to get the unit opened, and they had
3 already touched that lock, so I did not check it.

4 Q. Did you touch the handle that you -- the door, the
5 door opens and the door closes a certain way.

6 A. Right.

7 Q. There should be some type of handles.

8 A. I checked those areas, the handles of the door on
9 the victim's unit, I did check those and the exterior
10 portion of the door in certain areas.

11 Q. What about on the inside, did you check any other
12 items inside of the unit?

13 A. Inside the victim's unit?

14 Q. Well, the assailant unit.

15 A. I'm sorry?

16 Q. In the Defendant unit. If there was -- the victim
17 alleged that the -- was inside the storage unit?

18 A. Which --

19 Q. Inside the storage unit. Either one.

20 THE COURT: Repeat your question. Just ask -- what
21 was the question?

22 BY MR. TEMPLE:

23 Q. Did you find any fingerprints inside the storage
24 unit?

25 A. In which storage unit?

1 Q. Let's say the, the one that the, the victim said
2 she was raped in.

3 A. Inside unit 193, no, sir, I did not.

4 Q. You found no evidence?

5 A. No, I did not.

6 Q. Did you find any fingerprints in the victim's
7 storage unit on the sunglasses, the broken sunglasses, or
8 anything inside of it?

9 A. No, I did not.

10 Q. Not on the door handles?

11 A. No, I did not. I found one. On the victim's unit
12 there was one partial print on the outside of the door
13 frame; that was the only halfway decent print that was
14 recovered. But, as I said, it was on the exterior
15 portion on the outside of the storage unit, not on the
16 interior.

17 Q. Is it also true you, that day you collected other
18 items, such as socks?

19 A. Yes, I did.

20 Q. Sheets, you collected sheets?

21 A. Yes, I did.

22 Q. That were involved in this crime?

23 A. Yes. Yes, I did.

24 Q. Did you find the assailant -- well, you couldn't
25 determine that, so...

1 But they placed the evidence, they placed into
2 evidence these items?

3 A. The socks and the sheets?

4 Q. Right.

5 A. Yes, they were.

6 Q. When you inspected the car, did you notice any
7 damage to the car?

8 A. The victim's vehicle?

9 Q. Excuse me?

10 A. The victim's vehicle?

11 Q. Yeah. The victim's, the victim's vehicle.

12 THE COURT: The car. The car, you asked?

13 THE DEFENDANT: Yes, sir.

14 THE WITNESS: I don't recall any damage.

15 BY MR. TEMPLE:

16 Q. No kind of indication where there might have been,
17 anybody had been in an accident or --

18 A. No, sir.

19 Q. -- a bump or a scrape, dent?

20 A. Not right off, I don't recall any damage.

21 THE DEFENDANT: Thank you, Sergeant Merck.

22 Your Honor, no further questions.

23 THE COURT: Redirect?

24 MS. SIMMONS: Judge, just briefly.

25

1 REDIRECT EXAMINATION BY MS. SIMMONS:

2 MS. SIMMONS: I beg the Court's indulgence for just
3 one moment so I can get it turned on.

4 BY MS. SIMMONS:

5 Q. Sergeant Merck, while we're waiting for it to warm
6 up, I'm just gonna backtrack a little bit with you. You
7 indicated that you found a pair of gloves in the victim's
8 vehicle; is that correct?

9 A. Yes, that's correct.

10 Q. If you were in that car wearing gloves, would it
11 be consistent with finding no fingerprints?

12 A. Yes, it would.

13 Q. You also indicated you found no prints at all in
14 the victim's vehicle; is that correct?

15 A. Inside, yes, that is correct.

16 Q. Based on your training and experience, could that
17 be consistent with the inside of a vehicle being wiped
18 down?

19 A. Yes, ma'am, it could be.

20 Q. And on the storage units, the Defendant said that
21 you didn't find any prints. In fact, prints were not
22 attempted because you knew ownership of both of these
23 units, right?

24 A. Correct.

25 Q. Bringing you back to, a little further back as far

1 as your processing -- do you see that all right?

2 A. Yes.

3 Q. -- your processing of the Defendant's storage
4 unit, unit 193, the bottle in question has been admitted
5 by the Defendant. Can you point it out in that picture
6 and tell me where it was found?

7 A. In the center of the photograph in the white
8 five-gallon bucket, that is the bottle in the top of it.

9 Q. Right there?

10 A. Yes, ma'am.

11 Q. And that bottle, was it empty when you recovered
12 it?

13 A. Yes, ma'am.

14 Q. And what is that immediately to the left of the
15 bucket sitting in the floor with the large bottle?

16 A. The one with the white and yellow label is a
17 cleaning solution.

18 Q. And based on the victim's statement -- you have
19 been in this storage unit -- how many feet do you
20 estimate from where the incident, from where she said the
21 rape occurred to where this bucket was located?

22 A. Two to three feet.

23 Q. As to the purple washcloth, you did, you did
24 obtain a purple washcloth from inside the unit, correct?

25 A. Yes, ma'am, I did.

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1 Q. And you have testified that numerous other pieces
2 of cloth rags were found inside the unit?

3 A. Yes, ma'am.

4 Q. And is it indeed true that the victim cannot
5 identify this washcloth and the one that was used in her
6 attack?

7 A. Yes, ma'am, it is.

8 Q. And numerous rags were found in 193 in the
9 clutter?

10 A. Yes, ma'am.

11 Q. And not all, not all rags were collected?

12 A. No, ma'am, they were not.

13 Q. Would that have been physically impossible?

14 A. Yes, ma'am.

15 MS. SIMMONS: Thank you.

16 THE COURT: All right. Thank you, sir. You can
17 step down.

18 THE DEFENDANT: Your Honor, can I recross, please?

19 THE COURT: Just one question, please, one or two
20 questions.

21 RECROSS-EXAMINATION BY MR. TEMPLE:

22 Q. Sergeant Merck, this vehicle, was this vehicle
23 abandoned? Was it allegedly abandoned, left out in the
24 open?

25 A. To my knowledge, yes. I was not there when it was

1 recovered.

2 Q. Well, do you know if this vehicle's doors was
3 opened or closed?

4 A. I do not know. As I stated, I was not there when
5 the vehicle was recovered.

6 Q. So you don't know if it was exposed to other
7 people or not? You don't know if anyone went inside?

8 A. I don't have any idea.

9 Q. Also, you said this was cleaning agent. What kind
10 of cleaning agent is it if it's cleaning agent?

11 A. As far as a particular brand, I couldn't tell you.
12 I know it had the odor of a pine cleaner that I am used
13 to.

14 Q. Did you sample it or smell it?

15 A. Yes, I smelled it.

16 Q. You smelled it?

17 A. Yes, sir, I did.

18 Q. But you didn't look at the label?

19 A. No, sir, not at that time.

20 Q. When you took photos, when you got these photos
21 when you entered into this unit, you mentioned a lot of
22 rags was in there. But you mentioned only one rag at the
23 corner of the bed. If this, if all these rags was
24 involved in this incident, wouldn't they be somewhere in
25 the vicinity, or, of the, where all the other items was

1 found or -- this was the only rag that caught your
2 attention. For some reason all the other rags you
3 excluded. Did this rag have any importance to you, any
4 interest?

5 A. The one reason, it was on the bed.

6 Q. The rag was on the bed?

7 A. Yes, it was.

8 Q. Or by the bed, the edge of the bed?

9 MS. SIMMONS: Objection, Your Honor, asked and
10 answered.

11 THE COURT: Yeah. Just ask one question and let him
12 answer it.

13 THE DEFENDANT: Okay.

14 BY MR. TEMPLE:

15 Q. On the bed. Was this also the same bed that you
16 recovered the socks and the sheets and the such and such,
17 the blanket?

18 A. Yes, it was.

19 THE DEFENDANT: Thank you. No further questions.

20 THE COURT: Anything?

21 MS. SIMMONS: No.

22 THE COURT: Okay. You can step down.

23 (Whereupon, the witness was excused.)

24 THE COURT: Ladies and gentlemen, I'm gonna send you
25 out. We need to mark a piece of evidence and get that

1 straightened out. Don't discuss the case. It will only
2 take us ten minutes.

3 (Whereupon, the jury left the courtroom at
4 approximately 11:36 a.m.)

5 (The Court Reporter and Judge conferred off
6 the record.)

7 **THE COURT:** Yeah. What do you all have as
8 Defense -- what was Defense Exhibit 1 through 4?

9 **MS. ADAMS:** Judge, I don't think there are any.

10 **THE DEFENDANT:** No, sir.

11 **THE COURT:** You mentioned five and six. I've got it
12 as one and two would be the rag and the bottle.

13 **MS. SIMMONS:** Your Honor, I think he means one and
14 two.

15 **THE COURT:** You meant one and two?

16 **THE DEFENDANT:** Well, on the Oconee County Sheriff's
17 evidence collection bottle, it's labeled item five and
18 six.

19 **THE COURT:** So Defense 1 and 2 would be, 1 would be
20 the rag and 2 would be the bottle, which is still in its
21 container, and I intend to keep it there to keep it safe.
22 You all weren't gonna use it, are you?

23 **MS. ADAMS:** No, sir.

24 **THE COURT:** Well, if you do, we'll deal with it.
25 So it's 1 and 2. That was the confusion. Let's

1 take five minutes.

2 (Defendant's Exhibit Number 1, rag, was
3 marked for identification, formerly marked as
4 Defendant's Exhibit Number 5.)

5 (Defendant's Exhibit Number 2, bottle, was
6 marked for identification, formerly
7 Defendant's Exhibit Number 6.)

8 (Discussion off the record.)

9 (A recess was taken.)

10 THE COURT: Thanks. Have a seat.

11 Okay. You can call them in.

12 (The jury entered the courtroom at
13 approximately 12:00 p.m.)

14 THE COURT: All right. You can call your next
15 witness.

16 MS. SIMMONS: Thank you, Judge. We would call Betty
17 Butler.

18 Whereupon,

19 Betty Butler,

20 after first having been duly sworn, testified as follows:

21 DIRECT EXAMINATION BY MS. SIMMONS:

22 THE COURT: Yes, ma'am.

23 BY MS. SIMMONS:

24 Q. Good morning, Ms. Butler.

25 A. Good morning.

1 Q. Where are you employed, Mrs. Butler?

2 A. The State Law Enforcement Division, also known as
3 S.L.E.D.

4 Q. And what is your job title there?

5 A. Forensic Technician.

6 Q. And how long have you been at S.L.E.D.?

7 A. Over 15 years.

8 Q. What does your job as a forensic technician
9 entail?

10 A. As a forensic technician we take in evidence where
11 we do a chemical test, and sometimes we pick up evidence
12 and deliver it other places.

13 Q. On September 23rd, 2010, did S.L.E.D. receive what
14 is commonly known as a suspect blood sample?

15 A. Yes, we did.

16 Q. Is that S.L.E.D. Item 6?

17 A. Yes. I received the suspect blood on September
18 24th, 2010.

19 Q. Had it been altered or tampered with in any way at
20 all?

21 A. No, it was not.

22 Q. Who did you receive the suspect blood from?

23 A. From Forensic Technician Nikki Perry.

24 Q. What did you do with it?

25 A. When I received the item, I put it into my

1 custody, and I went to the third floor and placed it into
2 our refrigerator, which is a secured area in that
3 particular location.

4 Q. And what time did you deposit the suspect blood
5 into the third floor storage?

6 A. It was September 24, 2010, at 9:34.

7 Q. And that is a secure storage facility?

8 A. Yes, it is.

9 Q. Did anyone else have access to the suspect blood
10 while it was in your possession up until the time you
11 deposited it on the third floor?

12 A. No, they did not.

13 MS. SIMMONS: Please answer any questions the
14 Defendant might have.

15 CROSS-EXAMINATION BY MR. TEMPLE:

16 Q. Ms. Butler, would you please state again what day
17 that you deposited blood?

18 A. September 24th, 2010.

19 Q. And this was item number -- do they have an item
20 number?

21 A. Item Number 6.

22 Q. And you did no further testing?

23 A. No, I did not.

24 THE DEFENDANT: Thank you, ma'am. That's all of my
25 questions.

1 THE COURT: Anything else?

2 MS. SIMMONS: Nothing, Judge.

3 THE COURT: Ma'am, you can be excused.

4 (Whereupon, the witness was excused.)

5 MS. SIMMONS: Your Honor, the State calls Josetta
6 Blair.

7 Whereupon,

8 Josetta Blair,

9 after first having been duly sworn, testified as follows:

10 DIRECT EXAMINATION BY MS. SIMMONS:

11 Q. Good morning, Ms. Blair.

12 A. Good morning.

13 Q. Where are you employed?

14 A. South Carolina Law Enforcement Division, commonly
15 known as S.L.E.D.

16 Q. And what is your job title at S.L.E.D.?

17 A. A Forensics Technician.

18 Q. How long have you been at S.L.E.D.?

19 A. For approximately two and a half years.

20 Q. Explain to me what you do as a forensic
21 technician.

22 A. I receive evidence from the submitting agencies
23 throughout South Carolina. Once I receive that evidence,
24 I process the evidence for any type of biological fluids,
25 hairs, and fibers.

1 Q. Did you have occasion to be involved in S.L.E.D.
2 Case L10-05754 regarding this Defendant?

3 A. Yes, I did.

4 Q. Did S.L.E.D. receive a belt and a pair of gloves
5 in this case?

6 A. Yes.

7 Q. And when were those received by S.L.E.D.?

8 A. When did I receive it?

9 Q. When did you receive it -- I apologize -- the belt
10 and gloves?

11 A. Okay. I received the belt and gloves on October
12 25th, 2010, at 11:49.

13 Q. From whom?

14 A. Nikki Perry.

15 Q. Did you mark, notate for identification when you
16 received those items?

17 A. Yes. When I received those items, they were taken
18 into my custody, and while processing them I marked them
19 with my initials, the lab number and the I.D. number.

20 Q. Had they been altered or tampered with in any way
21 when you received them?

22 A. No. The seals were intact.

23 Q. What was your particular role with the belt and
24 gloves?

25 A. With the belt and the gloves, I was -- the request

1 for the belt and gloves were ownership and touch D.N.A.
2 in processing the gloves, I took two swabs from the
3 exterior of the gloves for touch D.N.A. and two swabs
4 from the interior of the gloves for ownership. And on
5 the belt I took the swab from the ends of the belt for
6 touch D.N.A. and also from the swab from the center of
7 the belt for touch D.N.A.

8 MS. SIMMONS: Judge, may I approach the witness?

9 THE COURT: Yes, ma'am.

10 BY MS. SIMMONS:

11 Q. Ms. Blair, I am going to show you what has already
12 been admitted into evidence as State Number 56, and I
13 have placed some gloves for you. This is the belt. Can
14 you show to the jury your markings on the belt?

15 A. Yes. (Witness opens bag.) On the outside you can
16 see where I had marked the Item Number 10, and the Lab
17 Number L10-05754, and the date was October 26th, 2010,
18 with my initials.

19 On the belt here you can see where I marked the
20 Item Number, 10, S.L.E.D.'S Item Number 10, Lab Number
21 L10-05754, and my initials. And also you will see where
22 I did the swabs, took the swabs on the belt.

23 Q. There are multiple spots on the belt?

24 A. Correct. For the Item Number 10.1 is the swab
25 from the belt ends, which you will see 10.1 here and 10.1

1 here. And then in the center you will see 10.2 where I
2 took the swab from the center of the belt.

3 Q. And once you collected the swabs or scrapings from
4 the gloves and the belt, what's the next thing you do
5 with those?

6 A. Once I have scraped and swabbed the items, they
7 are placed in a heat- -- in a coin envelope -- excuse
8 me -- in a coin envelope. Once they are dry they are
9 placed in that envelope and they are placed in a
10 heat-sealed pouch which has my initials, the lab number,
11 and the item number.

12 Q. And these are separately heat-sealed to prevent
13 cross-contamination?

14 A. Correct, they are separately heat-sealed in a
15 coin, sealed in coin envelopes, separate.

16 Q. And once you had placed those in envelopes, where
17 did they go?

18 A. They actually were transferred to Amanda Webb. I
19 physically gave her those swabs once I finished
20 processing the case.

21 Q. Did anyone else have access to the belt and gloves
22 and the swabs you produced from them during the time you
23 were processing them up to the point you deposited them
24 with Amanda Webb?

25 A. No, no one had access.

1 **MS. SIMMONS:** Please answer any questions the
2 Defendant may have.

3 **THE COURT:** Any questions?

4 (Mr. Tavernier and the Defendant conferred
5 off the record.)

6 **CROSS-EXAMINATION BY MR. TEMPLE:**

7 **Q.** Ms. Blair, so you did no further testings on these
8 items?

9 **A.** Once I took the swabs from those items, no, sir, I
10 did no further testing.

11 **Q.** And these were the only two items that you
12 received?

13 **A.** No, sir. I received other items besides the
14 gloves and belt.

15 **Q.** What was those items?

16 **A.** S.L.E.D. Lab Item Number 7 was a washcloth,
17 S.L.E.D. Number Item 8.1 was a hood, S.L.E.D. Lab Number
18 8.2 was a pair of gloves, Item 8.3 was a car charger, and
19 Item 8.10 was a belt.

20 **THE DEFENDANT:** Thank you, ma'am. No further
21 questions.

22 **THE COURT:** Anything else from the State?

23 **MS. SIMMONS:** No, Your Honor.

24 **THE COURT:** Thank you, ma'am. If you need to be
25 excused, you can be excused, okay?

1 (Whereupon, the witness was excused.)

2 MS. ADAMS: Your Honor, the State calls Amanda Webb.

3 Whereupon,

4 Amanda Webb,

5 after first having been duly sworn, testified as follows:

6 DIRECT EXAMINATION BY MS. ADAMS:

7 THE COURT: All right, yes, ma'am.

8 MS. ADAMS: Thank you, Your Honor.

9 BY MS. ADAMS:

10 Q. Amanda, where are you employed?

11 A. With the South Carolina Law Enforcement Division,

12 also known as S.L.E.D.

13 Q. What is your occupation there, what's your
14 occupation?

15 A. I'm a D.N.A. Analyst.

16 Q. And how long have you been employed with S.L.E.D.?

17 A. Approximately three years.

18 Q. Please tell the jury a little bit about your
19 educational background and training.

20 A. I have a Bachelor's of Science Degree in Forensic
21 Chemistry from Marshal University in West Virginia. And
22 I have a Master's Degree in Forensic Science, also from
23 Marshal University. And once I was employed with
24 S.L.E.D., I went through about a year and a half of
25 training before doing my own independent casework.

1 Q. And when you say you go through a year and a half
2 of training, what does that entail?

3 A. I am trained by a Court-Qualified D.N.A. Analyst,
4 I first learn how to handle evidence, how to do the
5 testing, how to run the instrumentation, and how to
6 interpret results. There is also a series of tests that
7 I must pass and get correct results for in order to be
8 allowed to work on any evidence.

9 Q. So have you testified in court before?

10 A. Yes, I have.

11 Q. And have you been qualified as an expert before?

12 A. Yes, I have.

13 MS. ADAMS: Your Honor, at this point I would like
14 to qualify Amanda Webb as an expert in Forensic Serology
15 and D.N.A. Analysis.

16 THE COURT: Any objection?

17 THE DEFENDANT: No, Your Honor.

18 THE COURT: She's qualified.

19 MS. ADAMS: Thank you, Your Honor.

20 BY MS. ADAMS:

21 Q. Please tell the Court what D.N.A. is.

22 A. D.N.A. is a molecule found in the body. It's
23 inherited from our parents. We get half of our D.N.A.
24 from our mothers and half from our fathers. Each
25 individual has their own D.N.A. that's different for each

1 person; except in the case of identical twins, identical
2 twins do have the same D.N.A.

3 And in forensics we test 16 different locations on
4 the D.N.A., and those 16 locations as a whole generates
5 what's called a D.N.A. profile. And a D.N.A. profile are
6 developed from evidence items and also known standards.
7 Known standards are D.N.A. collected from people that you
8 know it originates from, like victims or suspects. And
9 then any D.N.A. profile generated from evidence is
10 compared to the victim or the suspect.

11 Q. All right. So what type of fluids do you test?

12 A. I can test for blood, semen, and saliva.

13 Q. So in this particular case did you receive known
14 blood samples from the victim, Catherine McGough, and the
15 Defendant, Dennis Temple, for comparison purposes?

16 A. Yes, I did.

17 Q. And had those known samples been altered or
18 tampered with in any way?

19 A. No, they had not.

20 Q. Okay. And how do you know that?

21 A. I know because the packaging was intact when I
22 received it. The heat-sealed pouches that we have been
23 mentioning were attached and sealed properly and
24 initialed by anyone who had handled the evidence before.

25 I believe the blood standard from Dennis Temple

1 came from the D.N.A. technician, Sherree Brown. That had
2 been opened by Sherree Brown, because the blood samples
3 come in tubes of blood, and in order for us to make it
4 more usable and workable with the D.N.A. analysis, the
5 blood is just simply poured on paper, and that way I can
6 cut out pieces of the paper for my further testing. So
7 Sherree did pour the blood, but that's just to preserve
8 it, and that's all that was done to that standard.

9 Q. Now, Amanda, you also received several different
10 pieces of evidence in this case to test for D.N.A.:
11 Swabs from gloves, swabs from the belt that was mentioned
12 earlier, socks, the victim's rape kit, and obviously,
13 just like you said before, when you receive it, you would
14 obviously know if it had been intact or not because
15 everything is sealed properly from Process, correct?

16 A. Yes, that's correct.

17 Q. So all those items that you received were intact,
18 as they should have been?

19 A. Yes, that's correct.

20 Q. So once you receive these known blood standards
21 from the victim and the Defendant, again you compare them
22 to evidence that law enforcement sends you that's
23 collected at the crime scene; is that correct?

24 A. Yes, that's correct.

25 Q. Explain to the jury the different kinds of results

1 that you can get when you test evidence.

2 A. Basically the first thing I look for when
3 interpreting data of D.N.A. analysis, first I look to see
4 if there is a D.N.A. profile developed at all. If not,
5 then I say no D.N.A. profile was developed from those
6 items in my report.

7 If I do see a D.N.A. profile, I then look to see
8 if it's from one individual, which is called a single
9 source profile, or a mixture of two or more individuals.
10 If it's a single source, one individual, I can then
11 compare that evidence to standards that I can say match,
12 which means it's the same profile as a known individual,
13 or I can say excluded, which is a non match. And
14 sometimes there's not enough D.N.A., and I say it's
15 insufficient for interpretation.

16 If there is a mixture of two or more individuals,
17 sometimes one individual will deposit more D.N.A. on an
18 item than the other. We call those major contributors
19 just because they are contributing more D.N.A., and I'm
20 able to differentiate between individuals on those items,
21 and the person contributing less D.N.A. to that item
22 would then be the minor contributor.

23 Sometimes you can't discern between two different
24 individuals and that's just simply, you just call it a
25 mixture. But if you have enough, you can still include

1 or exclude someone.

2 Q. And that means basically if you exclude someone,
3 then their profile is not involved at all, so they didn't
4 touch it or whatever the case may be with a particular
5 evidence test?

6 A. That's correct. Their D.N.A. would not be on that
7 item.

8 Q. Okay. Now, before we start, the Defendant
9 mentioned, which is Defendant's Exhibit 1, this purple
10 washcloth or the rag. Did you test the rag for semen and
11 also to determine if the victim's D.N.A. and/or the
12 Defendant's D.N.A. was on it?

13 A. Yes, that's correct. I tested the swabs from the
14 rag.

15 Q. All right. And please tell the jury what your
16 findings were from that rag.

17 A. I tested two cuttings from the rag, and I tested
18 those for semen, and I didn't find any semen on those
19 cuttings.

20 And then there were two swabs taken from the rag,
21 and that was to check for touch D.N.A., which is just to,
22 just to see if anyone could have handled the rag or if it
23 was, if it was on their person and they could have gotten
24 D.N.A. on the item.

25 And the two swabs from the rag, from one of the

1 swabs I developed a mixture of at least two individuals,
2 and the D.N.A. profile of the major contributor to this
3 mixture, meaning the person who donated the most D.N.A.
4 to this rag, matches Dennis Temple.

5 And I was also looking for the victim on this rag,
6 and Catherine McGough was excluded as a possible
7 contributor of D.N.A. to this item, meaning I did not
8 find her D.N.A. on the rag.

9 And then the other swab from the rag was a single
10 D.N.A. profile, and it also matches Dennis Temple.

11 Q. So Amanda, specifically, if this rag had been
12 soaked in a cleaning solution, would you expect to find
13 anyone's D.N.A. on it?

14 A. No, I would not if it had been soaked. Usually
15 cleaning solutions are harsh agents and they can degrade
16 D.N.A. or sterilize D.N.A. We use cleaning solutions.
17 For instance, we use bleach in the lab, and that's one of
18 the things we use to sterilize our work spaces and get
19 rid of any residual D.N.A. that may be left, and we clean
20 in between cases to make sure that it doesn't carry over.
21 So I know cleaning agents do sterilize or destroy D.N.A.
22 Q. So, since you found the Defendant's D.N.A. along
23 with someone else 's and not Catherine's, is it highly
24 likely then that this is not the rag that Catherine said
25 the Defendant used to wipe her and clean her with?

1 A. I would say that would be highly likely, because a
2 rag soaked in a cleaning solution I would -- it would be
3 nearly impossible to find anyone's D.N.A. on it.

4 Q. Now the bottle. Was the bottle tested -- and this
5 is the bottle that we believe actually that the Defendant
6 used to clean Catherine out -- was the bottle tested for
7 a cleaning agent?

8 A. Yes, it was.

9 Q. Okay. And what were the results?

10 A. No cleaning solution was found.

11 Q. Okay. When was that bottle tested?

12 A. It was tested in November.

13 Q. All right. So the bottle was tested approximately
14 six months after the incident occurred?

15 A. Yes, that's correct.

16 Q. All right. Does it surprise you that you did not
17 find a cleaning agent or solution when you tested that
18 bottle?

19 A. No, it doesn't surprise me, because cleaning
20 solutions can decrease over time, can dissipate over
21 time. And since it had been six months since the
22 incident, and -- the packaging needs to be a certain way,
23 and it was in a paper bag, and when I received the item,
24 it was a Gatorade bottle, and there was kind of a screw
25 top from the mouthpiece, and it wasn't screwed down all

1 the way, so if there was anything inside the bottle, like
2 a cleaning solution, I would imagine that it could have
3 evaporated out of that bottle.

4 For instance, if you have used cleaning solution
5 before, which I'm sure you have, the smell from the
6 cleaning solution is kind of the indicator that we test
7 for for what makes that smell, the chemicals that do,
8 that's kind of what we test for. And you notice that
9 after you have cleaned, you can still smell the solution,
10 but if you wait a couple hours or so and come back, you
11 can't smell it anymore. That's because it has
12 evaporated. And I would say that that's a likely
13 scenario here, six months after the fact.

14 Q. And when you swabbed that bottle, it was empty,
15 correct?

16 A. Yes, that's correct.

17 Q. All right. Now, you also -- we asked you to test
18 the mouth of the bottle for the victim's D.N.A., correct?

19 A. Yes, that's correct.

20 Q. All right. And what were the results of that?

21 A. There was a partial D.N.A. profile developed from
22 the mouth of the bottle, but it was insufficient for
23 reliable interpretation. What that means is that I did
24 find a little bit of D.N.A., but there was not enough
25 there for me to make a comparison.

1 Q. Are those results also consistent with that bottle
2 being in a cleaning solution?

3 A. Yes, they are. If there was any D.N.A. on the
4 bottle and the cleaning solution came in contact, it
5 could have sterilized the D.N.A.

6 Q. So again, the lack of Catherine's D.N.A. is also
7 consistent with her statement?

8 A. Yes, that's correct.

9 Q. And just because you didn't find a cleaning
10 solution in that bottle doesn't mean that there wasn't a
11 cleaning solution in it six months earlier?

12 A. Yes, that's correct.

13 Q. All right. Let's go now, Amanda, to the swabs you
14 received that were taken from the inside and outside of
15 the gloves that were found in the victim's car. What are
16 you usually looking for with evidence such as gloves?
17 What are you testing? What do we want to know?

18 A. In this case we were testing for -- the common
19 practice in S.L.E.D. is to test gloves for ownership or
20 touch D.N.A., meaning who could have been wearing the
21 gloves and if they touched anyone while wearing those
22 gloves. And as item comes in to S.L.E.D., a swab, there
23 is a swab of the exterior of the glove taken and then a
24 swab of the interior of the glove taken. And the
25 exterior is looking to see if someone wearing it touched

1 someone, and the interior would be to see who was wearing
2 them.

3 Q. So tell the jury what your results were first from
4 the swabs taken from the outside of the gloves.

5 A. The swab from the outside of the gloves was a
6 mixture of at least two individuals. Catherine McGough
7 and Dennis Temple cannot be excluded as possible
8 contributors to this mixture. And that just means that I
9 found Catherine McGough's and Dennis Temple's D.N.A. on
10 the outside of those gloves.

11 Q. What were your results of the swabs taken from
12 inside of the gloves found in Catherine's car?

13 A. The inside of the gloves were again a mixture of
14 two individuals. Here I was able to discern a major
15 contributor, meaning someone who donated more D.N.A., and
16 that matched Dennis Temple. And Catherine McGough could
17 not be excluded as a possible minor contributor of D.N.A.
18 to the item. So her D.N.A. was also found on the inside
19 of the glove.

20 Q. And again I want to make sure the jury
21 understands, as a major contributor, does that mean that
22 Dennis Temple had prolonged contact with the inside of
23 those gloves?

24 A. That would be one possibility, yes, that he was
25 wearing them perhaps and maybe got more, more of his skin

1 cells on the gloves.

2 Q. Okay. Now, the victim in this case, Catherine
3 McGough, says that the Defendant wore gloves during this
4 nine-hour ordeal as he was coming in and out. But she
5 never touched gloves --

6 THE DEFENDANT: Objection, Your Honor.

7 BY MS. ADAMS:

8 Q. -- she never put those gloves on.

9 THE COURT: Hold on.

10 What's your objection?

11 THE DEFENDANT: She never, she never stated that in
12 her report.

13 MS. ADAMS: Your Honor, I apologize.

14 THE COURT: Well, she can ask the question. And if
15 she says she didn't state it, then --

16 All right. Go ahead.

17 BY MS. ADAMS:

18 Q. If the victim said that she had never touched
19 those gloves, please explain to the jury how her D.N.A.
20 can be on the outside and inside of those gloves.

21 A. What the victim's statement is saying that he was
22 wearing the gloves off and on, taking them off and on.
23 And if he had touched her without wearing the gloves and
24 possibly gotten her skin cells or some of her body fluid
25 on his hands, and then touched the gloves to put them on,

1 that would put them on the exterior of the gloves. And
2 then putting his hands inside of the gloves, that could
3 also transfer her D.N.A. from his hands to the inside of
4 the gloves.

5 Q. Did you also receive samples taken from the
6 leather belt that's already been admitted into this case?

7 A. Yes, I did.

8 Q. All right. What were you testing for on the
9 leather belt?

10 A. It was requested that we test for victim D.N.A.

11 Q. Based on her statement, obviously, she had been
12 strangled with the belt, right?

13 A. Yes, that's correct.

14 Q. All right. Tell the jury again where the swabs
15 were taken?

16 A. There were two swabs taken, one from the center of
17 the belt and one from the ends of the belt.

18 Q. What were your results?

19 A. The swabs that I tested, both from the ends of the
20 belt and the center of the belt, I didn't test them
21 together, I tested them separately, but they ended up
22 having the same result. So in the statement it was one
23 result.

24 Both of these swabs from the belt were mixtures of
25 at least two individuals. The D.N.A. from the major

1 contributor to this mixture matches Catherine McGough,
2 and Dennis Temple cannot be excluded as a minor
3 contributor to the belt.

4 Q. So what did that mean?

5 A. That means that both Catherine McGough and Dennis
6 Temple's D.N.A. was found on this belt, but Catherine had
7 left more D.N.A. behind. She contributed more to the
8 item.

9 Q. So that would be consistent with prolonged contact
10 with that belt?

11 A. Yes. Prolonged contact. And if you are being
12 choked with a belt, I can imagine it's rubbing, and so
13 that would also deposit more skin cells.

14 Q. So again, your findings are consistent with
15 Catherine McGough?

16 A. Yes, that's correct.

17 Q. Did you also receive three socks found at the
18 crime scene?

19 A. Yes, I did.

20 Q. And you actually received the socks, right? Not
21 the swabs or cuttings?

22 A. I took the whole socks into my custody.

23 Q. Explain to the jury what you did with the socks
24 and why.

25 A. It was requested that I test the socks for saliva

1 and the victim's D.N.A. because the victim had stated
2 that the suspect, Dennis Temple, had gagged her with the
3 socks, and so they were inside of her mouth and I wanted
4 to test for saliva. I tested all three of the socks for
5 saliva using an alternate light source, that's the
6 different shade of light that you see and it makes things
7 fluoresce, and I noticed some areas of fluorescence on
8 the socks, and I cut those areas out and I tested for
9 saliva with the chemical test, and saliva was indicated
10 on all of these socks. And the areas where I found
11 saliva I took out and I did D.N.A. analysis, and on all
12 of the socks that I did D.N.A. analysis on --

13 Q. Amanda, before you give me your results, tell me,
14 you just did one profile?

15 A. Just one profile on all three of the socks,
16 correct.

17 Q. Tell the jury the condition of the socks. In
18 other words, did they appear to be new, worn?

19 A. They appeared to be fairly new and pretty clean.
20 They looked nice and clean.

21 Q. I'm sorry. So tell the jury the results.

22 A. The D.N.A. profile developed from the socks
23 matches the D.N.A. profile of Catherine McGough, and the
24 probability of randomly selecting an unrelated individual
25 having a D.N.A. profile matching these items is

1 approximately one in 340 trillion.

2 Q. What does that number mean?

3 A. Basically it means if someone other than Catherine
4 McGough had left D.N.A., the D.N.A. profile on those
5 socks, the probability that her D.N.A. profile would also
6 match would be one in 340 trillion. Basically it's just
7 a calculation of how rare her profile is. And so her
8 profile in the population would be found one out of 340
9 trillion times. That exceeds the world's population.

10 Q. Which is, what, six billion?

11 A. Six billion, approximately.

12 Q. And this is 340 trillion?

13 A. Trillion, that's right.

14 Q. Why is it you are unable to develop a statistical
15 number for the socks as opposed to the belt and the
16 gloves that we just talked about?

17 A. It's S.L.E.D. protocol to make statistical match
18 statements to items that are more easily attainable for
19 calculation. And in this case it is a single source.
20 It's a D.N.A. profile developed from one individual. The
21 ones I was talking about before was a mixture of two or
22 more individuals.

23 And if you can put a statistic to a single
24 individual instead of a mixture, it gives a more true
25 representation of how rare that individual's profile is.

1 And any statistic that I would have developed for any of
2 the other items, the mixtures, would have been around the
3 same or a little bit less. But since I have the best
4 statistical calculation here, I then just say also
5 matches for the other items.

6 Q. So that's just basically you develop a number
7 here, too, because it's a single source and that's really
8 just your own policy? It doesn't mean that there is any
9 less Catherine's D.N.A. on any item or any less of the
10 Defendant's D.N.A.?

11 A. Yes, that's correct.

12 Q. Okay. All right. Did you also receive a sexual
13 assault evidence collection kit taken from Catherine at
14 the hospital?

15 A. Yes, I did.

16 Q. And you received vaginal swabs that were taken
17 from Catherine, correct?

18 A. Yes, that's correct.

19 Q. And what were you testing for?

20 A. I was testing for semen.

21 Q. What were your results on the vaginal swab for
22 semen?

23 A. No semen was found.

24 Q. Would you expect to find semen if the vaginal
25 canal had been injected with a cleaning solution and the

1 vaginal area wiped with a rag soaked in cleaning
2 solution?

3 A. It would be much less likely that I would find any
4 D.N.A. or any semen after someone had been cleaned with a
5 cleaning solution, again, for the reasons that we use it
6 in the lab. It just sterilizes any D.N.A. So I would
7 say, no, it would be very difficult.

8 Q. So again, as Catherine stated, she was injected
9 with a cleaning solution. Your findings of no semen are
10 consistent with her account?

11 A. Yes.

12 Q. All right. Did you receive rectal swabs from the
13 victim?

14 A. Yes, I did.

15 Q. Again, what were your results on the rectal --
16 because again, what are you looking for on the rectal
17 swabs as well?

18 A. Semen as well.

19 Q. And what were your results on the rectal swabs?

20 A. Semen was identified, and since semen was
21 identified, I then tested the item and tried to develop a
22 D.N.A. profile from the item.

23 Q. Now, explain for the jury before we get to your
24 results why, if there is no allegation of anal
25 intercourse, how you would find and indicate semen on a

1 rectal swab and not a vaginal swab?

2 A. It's found quite commonly, and I've seen it in
3 many cases before, where there is no rectal penetration,
4 but vaginal. And what happens is most likely the victim
5 is lying on their back, which I believe the victim says
6 she was in this instance. Gravity can sort of take over,
7 and the semen can sort of drain or drip from the vaginal
8 canal into the rectal canal.

9 Q. And Catherine was on her back during the attack,
10 and so your findings are consistent again with her
11 statement, because there was a time frame, too, in
12 between the actual rape and the cleaning?

13 A. Yes, that's correct. It would give it time to
14 drip down. And then also I can imagine that if there was
15 no anal penetration, then that area might not have been
16 cleaned.

17 Q. What were your results from the semen found on
18 Catherine's rectal swabs?

19 A. The D.N.A. profile developed from the semen on the
20 rectal swabs matches the D.N.A. profile of Dennis Temple,
21 and the probability of randomly selecting an unrelated
22 individual having a D.N.A. profile matching the semen on
23 the rectal swabs is one in 330 trillion.

24 Q. Please tell the jury what that number means.

25 A. If Dennis Temple was not the one who left his

1 semen on the rectal area of the victim, then the
2 probability that whoever would have left it just so
3 happened to have the same profile as Dennis Temple, would
4 be one in 330 trillion. Again, that's just a calculation
5 of how rare his D.N.A. profile is in the population.

6 Q. So why is it that when you developed Catherine's
7 profile, it was one in 340 trillion and this one is one
8 in 330? How do you get the different numbers?

9 A. It's because it's unique to each individual D.N.A.
10 profile. I'm looking at that person's profile and
11 calculating their uniqueness. And since a person has a
12 different profile, there's different numbers and
13 frequencies of the D.N.A. involved, and it gives a
14 different calculation result.

15 Q. But both numbers are extremely high, correct?

16 A. Yes. In all of my casework that I have done and
17 others I reviewed, these are rare profiles.

18 Q. So in your opinion, in your expert opinion, to a
19 reasonable degree of scientific certainty, does the semen
20 found on Catherine's rectal swabs match the Defendant,
21 Dennis Temple?

22 A. Yes, the semen found on the rectal swab matches
23 Dennis Temple.

24 Q. Which means it came from Dennis Temple, correct?

25 A. In my opinion, I would say so.

1 MS. ADAMS: Thank you, Amanda. Please answer
2 anything the Defendant has.

3 CROSS-EXAMINATION BY MR. TEMPLE:

4 Q. Ms. Webb, would you please state how many years
5 you have been working for the forensics laboratory at
6 S.L.E.D.?

7 A. Approximately three years.

8 Q. And you have training, you have a Bachelor's
9 Degree, forensic chemistry degree, A Bachelor of Science
10 Degree. Am I correct?

11 A. Yes, that's correct.

12 Q. And you analyzed the suspect blood?

13 A. Yes, I did.

14 Q. Is it also true that you tested the washcloth for
15 D.N.A. samples?

16 A. Yes, I did. I tested cuttings from the washcloth
17 and swabs from the washcloth.

18 Q. Is it true that the major contributor to this
19 mixture was Dennis Temple?

20 A. Yes. You were the major contributor to the
21 washcloth.

22 Q. Is it true that you also found another individual
23 present?

24 A. Yes, that's correct. There were at least two
25 individuals on this washcloth, you and someone else.

1 Q. And you exclude Catherine?

2 A. Yes, that's correct. I did not find her D.N.A. on
3 the washcloth.

4 Q. Did you receive any other washcloths?

5 A. No, I did not.

6 Q. At any time?

7 A. No, sir.

8 Q. Did you, when you analyzed this washcloth, did you
9 analyze it for cleaning solution?

10 A. No, I did not.

11 Q. Could your equipment, technology did [sic] such a
12 thing? Could it do -- could the technology that you had
13 at your, in your presence, could it detect such fluids or
14 substances?

15 A. I don't believe there would have been a method
16 that could have identified cleaning solution on the
17 washcloth the way it was received into the lab because it
18 had been six months after the incident and it wasn't
19 packaged and sealed to where the cleaning solution would
20 not have evaporated.

21 Q. Could you tell me what date were these tests
22 concluded?

23 THE WITNESS: If I could refer to my notes?

24 THE COURT: Yes, ma'am.

25

1 BY MR. TEMPLE:

2 Q. When the, when tests originally started on these
3 criminal sexual conduct kits of the victim and the
4 suspect?

5 A. I tested the washcloth on 10-31-10, and when the
6 original testing of the criminal sexual conduct kit was
7 in 6-22-10.

8 Q. So that's one month after the, roughly 45 days
9 after the incident occurred, not six months at all.

10 A. It was about a month for the testing of the
11 criminal sexual conduct items, but the washcloth was
12 tested in October -- well -- and that was approximately
13 five months after the incident. It was not received at
14 S.L.E.D. until October.

15 Q. You stated that you would not be able to detect
16 any D.N.A. findings due to the, due to the rag being
17 soaked in the cleaning solution. The victim stated that
18 the rag was soaked first and wiped after. So technically
19 the D.N.A. should have been still present on top. Would
20 you agree?

21 A. I would expect that the cleaning solution would
22 have soaked into the fabric of the rag, and if it was
23 dipped and then directly used to wipe the victim, I would
24 still expect it to degrade or sterilize any D.N.A. that
25 was on the rag due to the fact that the cleaning solution

1 would still have been fresh on the rag.

2 Or, if the rag was in a cleaning solution and then
3 a month or so later used to wipe someone, then I would
4 not expect the cleaning solution to still be as potent
5 and I would not expect it to sterilize any D.N.A.

6 Q. Because if the D.N.A. was placed on the rag first
7 and then soaked, it would kill the D.N.A., period, right?

8 A. Yes, that's correct. If it was within a short
9 amount of time that the cleaning solution was on the rag
10 and then used to wipe someone, it wouldn't have mattered
11 if they were wiped first before the cleaning solution was
12 added or after the cleaning solution was added, because
13 the cleaning solution would still be pretty saturated on
14 the rag, it would still be pretty potent and be able to
15 destroy any D.N.A. that might be on the rag.

16 Q. So are you saying that cleaning solution saturates
17 at a faster rate than D.N.A. --

18 MS. ADAMS: Your Honor, I object. Asked and
19 answered.

20 BY MR. TEMPLE:

21 Q. -- than the D.N.A.?

22 THE COURT: Hold on. All right.

23 Overruled. I'll allow him to answer the question.

24 You need to just ask, let her answer and move on to
25 the next question. Go ahead.

1 You can answer that question. Go ahead.

2 **THE WITNESS:** Um, I don't know that one necessarily
3 saturates faster than the other. It's just the fact that
4 the presence of the cleaning solution being on the rag,
5 together with the D.N.A., and they come into contact, it
6 would break open and destroy the D.N.A.

7 **BY MR. TEMPLE:**

8 Q. Is it true, is it true that, that an item that is
9 touched by anybody, D.N.A. can be left there without an
10 incident occurring?

11 A. Yes, that's correct. Just anyone touching an
12 object can leave D.N.A. behind. I've found that it's
13 more common that if a person has prolonged contact with
14 an item that it's more likely that their D.N.A. is gonna
15 be there instead of just touching it for a couple of
16 seconds and placing the item back down, you might not
17 transfer enough skin cells having been touching it for
18 not a long enough time to deposit the D.N.A. But yes, if
19 someone touches and handles, they can transfer their
20 D.N.A. to that item.

21 Q. So basically I could walk into the grocery store
22 and touch something and leave behind D.N.A.?

23 A. It's a possibility. It would depend on the
24 conditions. If your hands are all sweaty, it might leave
25 more D.N.A. behind. And again, it also depends also on

1 how long you have been handling the item. And there have
2 been instances, they're rare, but there have been
3 instances where if you touch for a couple seconds, you
4 might leave D.N.A. behind.

5 Q. So is it true that if a person used the bathroom
6 and wiped themselves with an item that belongs to someone
7 else, is it possible that you could transfer that D.N.A.?
8 Could that D.N.A. stick to them?

9 A. I'm not sure which, which transfer you are talking
10 about. The person who owns the items, their D.N.A.
11 transfers to the person who's wiping themselves, or the
12 person wiping themselves transferring their D.N.A. to the
13 item?

14 Q. Either or. It could be either one.

15 A. Either scenario is likely. It -- I would say it
16 would be more likely that just because a person owned an
17 item, they would have had to have been touching it or
18 wearing it for a long time before -- and get a larger
19 amount of D.N.A. on that item before it's transferred to
20 the person who wiped themselves with that item.

21 Q. If I was, if I went into Burger King or something
22 and I went to use the bathroom, and there was no tissue
23 in there and I saw some tissue on the floor, not on a
24 roll, and I took the tissue and after I used, after I
25 used the bathroom, I wiped myself, it's possible that I

1 could have transferred to somebody else who may have used
2 that tissue to wipe their nose, or could I, could I
3 possibly transfer that D.N.A. on myself?

4 A. Yes, that could be a possibility.

5 Q. Is it true that you tested other items, as well?

6 A. Yes, I did.

7 Q. What other items did you test?

8 MS. ADAMS: Your Honor, if he can ask about a
9 specific item, we don't object. I mean, there's a lot of
10 evidence submitted in this case.

11 THE COURT: Do you have a specific item you're
12 interested in?

13 THE DEFENDANT: Yes. The hood.

14 THE COURT: All right. Ask about the hood.

15 Sustained for that.

16 THE WITNESS: Yes. I tested swabs from a hood in
17 this case. I believe the hood is a hoodie sweatshirt.

18 BY MR. TEMPLE:

19 Q. And what was your finding?

20 A. Well, the D.N.A. developed from the hood is a
21 mixture of at least three individuals. Catherine McGough
22 and Dennis Temple cannot be excluded as possible
23 contributors of D.N.A. to this mixture, meaning I found
24 both Catherine McGough's and Dennis Temple's D.N.A. on
25 this sweatshirt.

1 Q. Nobody else? You said three, at least three?

2 A. Yes, there is a third individual.

3 Q. So would you find that normally in a situation
4 where only two individuals were involved, or allegedly
5 involved?

6 A. All I can attest to is that there were at least
7 three, three people's D.N.A. found on the item.

8 (The Defendant conferred with Mr. Tavernier
9 off the record.)

10 BY MR. TEMPLE:

11 Q. Ms. Webb, sorry, ma'am. Is it true that, that the
12 failure to secure certain items by either party, any
13 individual that would preserve those characteristics of
14 those items, could be lost?

15 A. Um, yes. You mean the cleaning solution, if it's
16 not the items believed to have cleaning solution on them
17 or contain cleaning solution, it can be lost over time if
18 it's not packaged correctly. And sometimes even if it is
19 packaged correctly, a prolonged amount of time will also
20 have the solution to evaporate.

21 Q. So to make a positive affirmative disposition
22 about that particular item, it would be hypothetical,
23 wouldn't you think? It would be -- it would not be -- it
24 would be an error to make such a conclusion, since this,
25 the package that the items were sealed in were not

1 preserved?

2 A. The only conclusions that can be made is that the
3 item was tested and no cleaning solution was found. And
4 yes, it is. It's not a definite, but it's just a
5 possibility that the solution was there and evaporated.
6 But the only definite one that can be made is that it was
7 tested but there was none found.

8 Q. Can I open the package?

9 A. Sure.

10 Q. If I open the bag of chips, two days later they
11 wouldn't have the same freshness as they had when it was
12 first opened.

13 THE DEFENDANT: Thank you, Ms. Webb. No further
14 questions. Thank you, ma'am.

15 THE COURT: Anything on redirect?

16 REDIRECT EXAMINATION BY MS. ADAMS:

17 Q. Just to be clear, Amanda, the hood that the
18 Defendant was referring to that was found in Catherine's
19 car with the gloves. This third individual, is it
20 possible, obviously, that Mr. Temple could have let
21 someone else wear that sweatshirt long before this
22 incident and you would find their D.N.A.?

23 A. Yes. That could definitely be a possibility.
24 Especially if the shirt had not been laundered since it
25 had been worn and shared by someone else.

1 Q. And again, since Catherine had never touched these
2 items, the most likely scenario is her D.N.A. was placed
3 on these items when the Defendant touched them after
4 touching her?

5 A. Yes, that would be a likely scenario.

6 MS. ADAMS: Thank you, Your Honor.

7 THE COURT: Anything else?

8 THE DEFENDANT: Yes.

9 RECROSS-EXAMINATION BY MR. TEMPLE:

10 Q. Likely, but not the only scenario, right?

11 A. That's correct. I'm trying to imagine how else
12 her D.N.A. would have gotten on a sweatshirt that she
13 didn't touch if it wasn't from someone touching her and
14 placing it, and transferring it to the item, unless she
15 had worn the item also or brushed up against it.

16 Q. Are we talking about a sweatshirt here?

17 A. I thought that's what we were talking about. Did
18 you mean something else?

19 Q. I thought we was talking about, the State
20 mentioned a hood.

21 MS. ADAMS: The hoodie shirt.

22 THE WITNESS: I believe, I believe the hood in this
23 case is, the item is a hoodie sweatshirt. It was
24 submitted to S.L.E.D. with a description of "hood," so I
25 believe it's a hoodie sweatshirt.

1 THE DEFENDANT: Okay. Thank you, ma'am.

2 THE COURT: Anything else? (No response.)

3 All right. You can step down. You may be excused.

4 MS. ADAMS: May she be excused?

5 THE COURT: Yes. That's what I just said.

6 (Whereupon, the witness was excused.)

7 MS. ADAMS: Your Honor, the State rests.

8 THE COURT: All right. Ladies and gentlemen, I'm
9 gonna send you to lunch. We've got some matters that we
10 have to take care of, so please don't be back in the jury
11 room until 2:30. Don't discuss the case and be prepared
12 to sit here this afternoon for a while. Have a good
13 lunch.

14 (Whereupon, the jury left the courtroom at
15 approximately 1:10 p.m.)

16 THE COURT: The State has rested. Any motions?

17 (The Defendant conferred with Mr. Tavernier
18 off the record.)

19 DEFENDANT'S MOTIONS:

20 THE DEFENDANT: Okay. Yes, sir. I'm not familiar
21 with this part here. But I would like to preserve the
22 past previous motions that I have filed in this case in
23 any hearing that I've had.

24 Do I need to state them, Your Honor?

25 THE COURT: No. Anything that, any motions you made

1 in our hearing last week or anything you made today or
2 during this week is protected for the record.

3 THE DEFENDANT: Thank you, sir. Also, I have one
4 new one, a new motion.

5 THE COURT: All right.

6 THE DEFENDANT: Which would be a mistrial. And the
7 grounds for that would be that the State has admitted
8 evidence of, or consistently stated that cleaning
9 solution was used in the alleged victim. They failed to
10 put forth the evidence in reference to that. Even not by
11 the doctor, not by Belton (phonetic) or Stauber
12 (phonetic) or S.L.E.D. or -- and it was extremely
13 prejudicial, it was damaging, it was -- it deprived me of
14 rights. That's all the -- the Gatorade bottle, too, Your
15 Honor.

16 THE COURT: Okay. And ask Mr. Tavernier, if you
17 want, if there's any other motion you need to make, just
18 briefly.

19 (The Defendant conferred with Mr. Tavernier
20 off the record.)

21 THE COURT: Let me say this. You don't need to be
22 specific. Stand up, if you would. I assume you would
23 want to make a directed verdict motion at this stage.

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: Okay. Go ahead. And you don't have to

1 be too specific. Just generally I would assume you would
2 want me to grant a directed verdict motion because the
3 evidence has been insufficient to convict you at this
4 point.

5 THE DEFENDANT: Yes, sir. Because that is true,
6 Your Honor. Because I didn't know this proceeding right
7 here was -- this is my first time in trial. I didn't
8 know that this is the particular time -- well, I did, but
9 any lapse, Your Honor, for this specific motion.

10 COURT'S RULING ON DEFENDANT'S MOTIONS:

11 THE COURT: Motion, okay. Okay. On the directed
12 verdict -- and what I want to make sure of and what I've
13 tried to make sure of all along is everything is
14 preserved and any rights you might have will be
15 protected.

16 Your directed verdict motion is denied.

17 And the motion for mistrial is denied basically
18 because the issue of the lack of cleaning solution is a
19 factual issue for the jury. It's something that
20 obviously you can argue in closing if that's what you
21 want to do. So those motions are denied.

22 I need to talk to you about your Fifth Amendment
23 rights. Have you had enough time to talk with
24 Mr. Tavernier and think about whether you are going to
25 present any evidence or testify?

1 **THE DEFENDANT:** I would like to present two
2 witnesses.

3 **THE COURT:** Okay.

4 **THE DEFENDANT:** Well, actually, they're State
5 witnesses. I would like to bring them back as my witness
6 and label them as hostile witnesses.

7 **MS. SIMMONS:** Judge, he didn't present a witness
8 list at the beginning of this case.

9 **THE COURT:** Well, I understand. You don't have any
10 new witnesses. You've got State witnesses you want to
11 re-call?

12 **THE DEFENDANT:** No, no new witnesses.

13 **THE COURT:** All right. Who do you want to call?

14 **THE DEFENDANT:** That would be Nurse Chapman and
15 Catherine McGough.

16 **MS. SIMMONS:** Judge, we have released Nurse Chapman.

17 **THE COURT:** Nurse Chapman has been released. She's
18 not here. And we released her from her subpoena.

19 **MS. ADAMS:** And, Your Honor, he had ample
20 opportunity to cross-examine Catherine.

21 **THE COURT:** What do you want to bring up new? I
22 mean, you had your --

23 **THE DEFENDANT:** It was during the State's direct
24 examination, they failed to bring up certain matters. So
25 this information I think was pertinent to the case, and I

1 feel that it's pertinent in this case.

2 THE COURT: All right. You are protected for the
3 record for wanting to call them. But you had an
4 opportunity to cross, and that was your opportunity to
5 bring up that information. But I assume that you
6 would -- like I said, you are protected for the record if
7 you want to appeal my denial if you want to call her
8 back.

9 Also, we have released Nurse Chapman. What do you
10 want to ask Nurse Chapman? And you don't have to tell me
11 specifically, but generally so the record is clear.

12 THE DEFENDANT: It was in reference to, to the
13 credibility of the victim.

14 THE COURT: Okay. All right. And again, you are
15 protected for the record, but I wouldn't let you re-call
16 the victim, or if you could get Nurse Chapman here,
17 obviously I'm not sure, but she's not here. And I assume
18 no subpoenas were issued and we have released her.

19 Other than those two, is there anybody you would --
20 and have you talked specifically to Mr. Tavernier about
21 whether you're gonna testify?

22 THE DEFENDANT: No.

23 COURT'S EXPLANATION OF DEFENDANT'S RIGHT TO TESTIFY:

24 THE COURT: All right. Well, let me do this. And
25 just take it -- I want to take a minute to explain what

1 your rights are. And some of this I need to do for the
2 record and some of it, if you don't understand, you need
3 to make sure that you understand. You can ask me
4 questions or ask Mr. Tavernier questions.

5 We have reached the point where the State has rested
6 where you have got the opportunity to testify if you want
7 to.

8 You have the right to claim the protection of the
9 Fifth Amendment. And just basically in general and in
10 part, the Fifth Amendment says no person shall be
11 compelled in any criminal case to be a witness against
12 themselves. That means that I can't or the State can't
13 require you to testify against yourself, but you do have
14 the right to testify. Nobody can make you. It's a
15 personal right that you have to waive if you want to
16 waive it. You do need to understand that if you did
17 testify, you would be subject to the rules of
18 cross-examination. You could be examined on certain
19 convictions involving dishonesty or false statements or
20 that might carry a year or more in prison.

21 The question is, that I have for you and that I need
22 to put on the record is whether or not you thought about
23 this issue, whether or not you had time to discuss this
24 with your family or anyone else that you need to discuss
25 it with, and if you have made a freely, voluntarily,

1 knowingly and intelligently made decision not to testify.

2 If you decide not to testify, I'll explain to the
3 jury that you have a right not to testify, the Fifth
4 Amendment grants you that right, it is a substantial
5 right, and that they cannot discuss during their
6 deliberations the fact that you didn't testify.

7 So have you talked about that with Mr. Tavernier and
8 other parties?

9 MR. TAVERNIER: (Nodded head.)

10 THE DEFENDANT: Yeah, I think we have -- I might --
11 we -- Fifth Amendment, yes, we have. Yes, Your Honor.

12 THE COURT: Okay. Do you have any questions to me
13 about your Fifth Amendment rights only?

14 THE DEFENDANT: Yeah, I do, Your Honor.

15 THE COURT: All right. What is it?

16 You can talk to Mr. Tavernier.

17 MR. TAVERNIER: Your Honor, for the record we have
18 discussed it and gone over -- I have not made any
19 advisement to him other than to give him what his options
20 are. And based on what he is saying, I think I
21 probably -- if you can give us a couple minutes so we can
22 go back over it and he can come back and address the
23 Court?

24 THE COURT: Yeah. The reason I -- do you want to do
25 that?

1 MR. TAVERNIER: If we can. And I told him some
2 options, but I think he's having some confusion on what
3 those options are.

4 THE COURT: Okay. I'll let you do that over lunch.
5 I want everybody back at 2:30. Because assuming -- if I
6 make the assumption you're not gonna testify and not call
7 any other witnesses, we'll move right into closing
8 arguments and the jury charge.

9 If you are, obviously it's gonna make a difference.
10 So be back at 2:30 and we'll go back on the record. I'll
11 question you again and make sure you understand it and
12 we'll go from there.

13 Okay. We're adjourned for about an hour.

14 (A luncheon recess occurred.)

15 End of Morning Proceedings

16 ***

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1 **AFTERNOON PROCEEDINGS**

2 (Approximately 2:38 p.m.)

3 **THE COURT:** Mr. Temple, during lunch have you had
4 time to think about whether or not you're going to
5 testify, and also have you had time to speak with your
6 advisory counsel?

7 **THE DEFENDANT:** Yes, Your Honor. And I will not
8 testify.

9 **THE COURT:** All right. And you understand your
10 Fifth Amendment rights and you don't have any questions
11 about that? That's a freely, voluntarily, knowingly and
12 intelligently made decision you made; is that correct?
13 Nobody has forced you to make it?

14 **THE DEFENDANT:** No, sir.

15 **THE COURT:** Thank you. Do you have any evidence
16 that you are gonna put up or will you just rest?

17 (The Defendant conferred with Mr. Tavernier
18 off the record.)

19 **THE DEFENDANT:** Yes, Your Honor.

20 **THE COURT:** You need to make a motion, to renew a
21 motion?

22 **DEFENDANT'S MOTION:**

23 **THE DEFENDANT:** Yeah. Because I'm renewing my
24 motion on -- well, it was kind of like a, when I
25 questioned, cross-examined the victim in this case, when

1 I finished, I stated, "Your Honor, no more questions at
2 this time." I didn't state that I was not gonna, had no
3 intentions of cross-examining her again. My intention
4 was to bring her up on direct as a witness. I intended
5 to bring her in as my witness.

6 THE COURT: All right. What do you want to get from
7 her? That's what I'm trying to understand.

8 THE DEFENDANT: I'm trying to prove that what she's
9 saying is lying, which, which I didn't do during, when I
10 was cross-examining her. I got to prove that she's lying
11 about several different things that she said. Plus, I
12 can prove that she said there was more people there at
13 that time than me and her.

14 THE COURT: What's y'all's position?

15 MS. SIMMONS: Judge, those are all things that were
16 within the scope of, could have been within the scope of
17 his cross-examination of her. Those were not things that
18 came out later in the trial. And he had a full and fair
19 opportunity to cross-examine her at that time.

20 THE DEFENDANT: Your Honor, as you know, as
21 witnesses came and came and came, different issues did
22 come up which make up the whole of my intentions or my
23 request, you know, to bring her back up. That was
24 intended as a trial strategy only, you know?

25

1 COURT'S RULING ON DEFENDANT'S MOTION:

2 THE COURT: Okay. All right. And I understand what
3 motion you are making, and again I'm gonna deny your
4 motion to allow you to -- and my opinion at this point
5 that was something that could have been directed to her
6 in cross. And again, I understand you want to protect
7 your rights in that regard, so you are protected for
8 that.

9 THE DEFENDANT: Okay. Can I argue the issues or the
10 facts of her statement on opening statement?

11 THE COURT: Yeah. Go ahead.

12 All right. So the Defense is resting, right? Is
13 that correct?

14 THE DEFENDANT: Yes, sir. I rest.

15 THE COURT: Okay. So we'll move on to closing. And
16 y'all will close and then he'll reply.

17 MS. ADAMS: Your Honor, since he introduced
18 evidence, it's my understanding I'm gonna open on the
19 law, he goes and then I go.

20 THE COURT: I think you have to open in full and
21 then he gets to reply. I think that's where this whole
22 discussion -- I mean -- what did he introduce?

23 MS. ADAMS: He admitted evidence.

24 THE COURT: What?

25 MS. ADAMS: So he lost his right for closing

1 argument. Defendant's Exhibits 1 and 2, remember, he
2 admitted the bottle and the rag.

3 THE COURT: Right, and I understand that.

4 So what's your intention?

5 MS. ADAMS: Well, Your Honor, it's my understanding
6 based on the law that since he admitted evidence, that he
7 loses his right to final argument, closing argument, so
8 I --

9 THE COURT: Show me where it says that. I mean, I'm
10 just asking. I think he has a right to reply even though
11 he puts in evidence. The old rules were that. The new
12 rules are you open and close in full and he replies and
13 that's it. The old rules are where you had to open or
14 close on the law, then he replies and you sandwiched in
15 with the facts. I'm confused about where you come up
16 with that, though, but I'll be happy to look at it.

17 MS. ADAMS: I think I gave some of the cases to
18 Hillary. It was, it was my understanding that it's Rule
19 59 that is no longer in existence, that basically --

20 THE COURT: I'm not talking about the issue of where
21 he doesn't put in evidence.

22 MS. ADAMS: Right. So when he does, that means he,
23 it's just like putting forward testimony, which means he
24 doesn't get final argument.

25 THE COURT: All right.

1 Any objection to that?

2 (The Defendant conferred with Mr. Tavernier
3 off the record.)

4 THE DEFENDANT: No, Your Honor.

5 THE COURT: All right. That's fine. It's a tempest
6 in a teapot. That's fine.

7 Anything else from the State or Defense? Because
8 I'm going right into closing when we bring them back in.
9 Anything in rebuttal?

10 THE DEFENDANT: I'm fine, Your Honor.

11 MS. ADAMS: I open, he goes, and then if I want
12 to...

13 THE COURT: Right.

14 MS. ADAMS: Okay.

15 THE COURT: Okay. Let's bring them in.

16 (The jury entered the courtroom at
17 approximately 2:45 p.m.)

18 THE COURT: All right. Ladies and gentlemen, you
19 have heard all the testimony that you're gonna hear in
20 this case. The Defense has rested. As I told you
21 earlier, the Defendant is not in any way forced to
22 testify. In fact, you cannot discuss -- and I'll tell
23 you this again in my charge -- you can't discuss the fact
24 that he's not testified when you begin your
25 deliberations. And because the burden is on the State to

1 prove each and every element, he doesn't have to put up
2 any evidence and he's made that decision.

3 So you have heard all the testimony. We'll move to
4 closing argument. After the closing arguments, I have to
5 read to you verbatim about 20 pages' worth of law. So
6 once the closing arguments are finished, if you need a
7 break, let me know. Otherwise I'll move right into the
8 charge and we'll give this case to you for your
9 deliberations.

10 But let me also remind you that closing arguments
11 are not evidence and shouldn't be considered by you as
12 evidence. They're merely the opportunity for the State
13 and the Defense to argue their position and tell you
14 again why you should agree with them on their position.

15 All right. Yes, ma'am.

16 MS. ADAMS: Thank you, Your Honor, may it please the
17 Court.

18 CLOSING ARGUMENT ON BEHALF OF THE STATE (LAW):

19 MS. ADAMS: Ladies and gentlemen, it's now time to
20 turn this case over to you. It is time for you to find
21 the Defendant, Dennis Temple, guilty of every single
22 crime that he has been charged with.

23 As the Judge just told you, when we are done, he's
24 gonna instruct you on the law, and you must take the law
25 as he gives it. But I'm gonna take an opportunity right

1 now to go over the law with you and explain to you why
2 there is no doubt that the Defendant is guilty of every
3 single crime charged. And after the Defendant has an
4 opportunity to speak, I will again be able to address
5 you.

6 But first let's start with the law.

7 The Defendant has been charged, as you know, with
8 two counts of criminal sexual conduct in the first
9 degree. These are the elements. I have to prove to you
10 beyond a reasonable doubt each and every element of every
11 single crime charged.

12 The Defendant engaged in a sexual battery with the
13 victim, Catherine. Sexual battery is sexual intercourse,
14 cunnilingus, fellatio, anal intercourse, or any
15 intrusion, however slight, of any part of a person's body
16 or of any object into the genital or anal openings of
17 another person's body.

18 Sexual battery. Ladies and gentlemen, the first
19 count of criminal sexual conduct deals with the penile
20 penetration of the Defendant into Catherine's vagina.
21 That is the sexual battery, that is the penetration, all
22 right? We know that that occurred. There was
23 overwhelming evidence that that occurred. You have the
24 Defendant's semen on the rectal swabs that was taken from
25 Catherine at the hospital. One in 330 trillion. It

1 belongs to one person, and that person is the Defendant,
2 Dennis Temple.

3 Now, you heard from Amanda Webb, the D.N.A. expert.
4 There was no anal intercourse. But the fact that semen
5 came from a rectal swab is very common. Ladies and
6 gentlemen, it's graphic. It's graphic. And Catherine
7 was lying on her back during a sexual assault, and there
8 was a time frame, he told you, before he got up and
9 cleaned her out. There is no doubt that the Defendant
10 had sexual intercourse with Catherine.

11 Now, the second count deals with what happened when
12 he got up after he had sexual intercourse with her.
13 Because the law says, for any intrusion, however slight,
14 of any person's body or of any object into the genital
15 opening of another person's body. The object is the
16 bottle, the Gatorade bottle. When he inserted that
17 bottle into Catherine's vaginal area, he committed a
18 second and separate criminal sexual conduct. It is a
19 distinct and separate crime. It's what the law says, and
20 that is what he is charged with.

21 When he stuck that bottle in her, in an attempt to
22 destroy all the evidence, he injected a cleaning solution
23 into her to destroy his semen. And ladies and gentlemen,
24 it was a cleaning solution in that bottle. Catherine
25 told you she smelled it in the bucket and Sergeant

1 Patrick Merck told you he smelled the cleaning solution
2 in the bucket. Amanda Webb, the expert, told you she was
3 not surprised they didn't find it in the Gatorade bottle
4 when they tested it because it had evaporated.

5 Ladies and gentlemen, you need to remember when you
6 walk into this courtroom, you do not leave your common
7 sense out there, you bring that in here, too. All the
8 evidence is overwhelming and supports exactly what
9 Catherine said happened. And that bottle is a second and
10 separate offense and crime.

11 Now, I also have to prove to you that he used
12 aggravated force to accomplish this sexual battery, or --
13 not both -- or the victim submitted to sexual battery
14 while she was, while she was also the victim of forcible
15 confinement, or kidnapped. We have both for criminal
16 sexual conduct. We have aggravated force and we have
17 kidnapping. But kidnapping, again, is a second offense.
18 We'll get to that in a minute.

19 What is aggravated force? It is the use of physical
20 force or physical violence of a high and aggravated
21 nature to overcome the victim. And it also includes the
22 threat of using a deadly weapon, ladies and gentlemen.
23 He forced Catherine into her unit. She fought. He
24 strangled her, he punched her. And then he took the belt
25 you have in evidence, wrapped it around her neck, like

1 you would put a choke collar on a dog, and drug her 83
2 feet at least across a gravel parking lot. She lost
3 consciousness, she urinated over herself, which is
4 consistent with being to the point of passing out. And
5 when she wakes up she's on a mattress, he gags her and he
6 ties her. You got the socks with her saliva all over
7 them, and you have strips of sheet that he used to bind
8 her.

9 You have the pictures. The marks are consistent.
10 She has scratches all over her body, bruises all over her
11 body. He punched her on the nose, her nose is swollen.
12 Everything is consistent. Ladies and gentlemen, if that
13 is not aggravated force, I don't know what aggravated
14 force is.

15 Kidnapping is a second and separate offense, even
16 though it's a part of criminal sexual conduct.

17 I have to prove to you each and every element of
18 kidnapping. It's that the Defendant, Dennis Temple,
19 knew, knowingly and unlawfully, seized, confined,
20 inveigled, decoyed, kidnapped, abducted, or carried away
21 another person. Seize means to take hold of suddenly or
22 forcibly. Confine means to limit, restrict or enclose,
23 kidnap is to remove a person against her will, and abduct
24 means to carry off secretly or by force, and for an
25 illegal purpose.

1 Ladies and gentlemen, Catherine's D.N.A. is on the
2 inside of that belt because it was around her neck for so
3 long. Even worse, fear. That's what kidnapping is. He
4 locked her in his unit for over nine hours. She could
5 not escape. That is kidnapping. He tied her up
6 repeatedly. That's kidnapping.

7 And finally, ladies and gentlemen, he stole her car.
8 Grand larceny. Taking and carrying away personal
9 property is the car valued at more than \$5,000. The car
10 was worth \$19,000, the wholesale value, and he intended
11 to deprive her of it. Ladies and gentlemen, you do not
12 leave your common sense outside there when you come in
13 here. He stole her car.

14 The Defendant is now gonna have an opportunity to
15 talk to you, and I'll be back.

16 THE COURT: Yes, sir.

17 THE DEFENDANT: May I use this, Your Honor?

18 THE COURT: Yes.

19 Ms. Adams, would you cut that on for him?

20 MS. ADAMS: Turn it on, yes.

21 THE COURT: Please.

22 CLOSING ARGUMENT BY THE DEFENDANT:

23 THE DEFENDANT: The prosecution wants y'all to
24 believe that this is, these are crimes that I committed,
25 which are not consistent. I haven't had a full

1 opportunity --

2 Can I go into this, Your Honor?

3 THE COURT: Sure.

4 THE DEFENDANT: I really haven't had a full
5 opportunity to defend myself because my strategy was
6 based upon my re-calling of ---

7 MS. ADAMS: Your Honor, objection.

8 THE DEFENDANT: Okay.

9 THE COURT: Yeah, sustained.

10 THE DEFENDANT: But my thing is it's not consistent.
11 I'm gonna show you why.

12 The victim states -- well, on the date of rape she
13 stated that -- she stated several things, a seven-page
14 story. College student.

15 She stated that when she arrived at All Safe, she
16 came in the gate. She saw the assailant leaving out. If
17 you recall, when the manager of All Safe testified, she
18 said that the only way to get in with a car is you have
19 to punch a code in. The only way to come out with a car
20 or to come out for the gate to go back period, the only
21 way for the gate to open when you are inside is you have
22 to be in the car.

23 So if the victim said that I was walking, the only
24 way out would be up under the gate, not by the gate
25 opening, or even going out where she come, which would be

1 the wiser choice instead of going up under the gate.

2 All right. Well, here we have -- if she came in,
3 Catherine McGough, if she came in here, which would be
4 4:38, then I was going out at that same time. She said
5 that -- this, this document here shows that I came in at,
6 allegedly came in at 4:41. So if I entered according to
7 this document at 4:41, and she stated in her statement
8 that I left two or three times, then where is it
9 documented in this report a second time after I arrived
10 behind her? That's one thing I wanted to point out.

11 But also another thing I wanted to point out is the
12 fact that in her statement she said that, she said that I
13 have drug her to my unit.

14 Let me put that up here, too.

15 MS. ADAMS: Your Honor, objection. He's getting
16 ready to show them something that I don't think is in
17 evidence.

18 THE COURT: What are you getting ready to show?

19 THE DEFENDANT: Your Honor, the prosecution told the
20 jury during direct examination with the witness that I
21 drug her from my storage shed, from her storage shed to
22 my storage shed. I'm gonna prove to the jury that she
23 stated in her statement to the police that I had drug
24 her.

25 THE COURT: That you have drug her?

1 THE DEFENDANT: Yeah. Not only that. The
2 prosecution also stated that, and the victim admitted to
3 her that she was --

4 THE COURT: I'll tell you what. Come around here
5 behind the screen.

6 (Discussion at sidebar.)

7 THE COURT: Ladies and gentlemen, I need to send you
8 out for a few minutes. We need to find something on a
9 tape. Please do not discuss this case yet.

10 (Whereupon, the jury left the courtroom at
11 approximately 3:06 p.m.)

12 THE COURT: Let me just put on the record -- and,
13 Mr. Temple, I don't want to misstate anything that was
14 said here because a lot was said. But basically you
15 wanted at first to first introduce a portion of the
16 victim's statement. Since that's not into evidence, I
17 told you behind the curtain that you couldn't do that.

18 And then you want to, us to play a portion, the very
19 last portion of the 9-1-1 tape where the dispatcher asks,
20 "Does he have a weapon?" That's the portion you want; is
21 that right?

22 THE DEFENDANT: Well ---

23 THE COURT: Stand up. She can't hear you if you sit
24 down. I don't care, but...

25 THE DEFENDANT: Yes, Your Honor. The particular

1 part is when the 9-1-1 operator asks the question and her
2 response. That's -- there's more contradicting
3 statements on that tape, but I'll settle for --

4 THE COURT: All right. She's gonna try to find it.
5 We'll take just a quick break, like four minutes. See if
6 you can find it. You can come up here with her and make
7 sure y'all are at the right spot, and then I'll bring
8 them back in.

9 (Ms. Simmons and Mr. Temple confer.)

10 (A recess was taken.)

11 THE COURT: Mr. Temple, is it all right if she stays
12 here, starts, and tell her to stop and she'll do it?

13 THE DEFENDANT: You're in charge. You're the boss.

14 THE COURT: I'm glad somebody recognizes it. But I
15 don't want to play any more than you want to hear, that
16 you want them to hear.

17 All right. You can bring them in.

18 Just say "stop" and she'll stop.

19 MS. SIMMONS: And then I'll sit down.

20 (The jury entered the courtroom at
21 approximately 3:17 p.m.)

22 THE COURT: Thank you, ladies and gentlemen.
23 Go ahead, Mr. Temple.

24 THE DEFENDANT: Can I tell them why?

25 THE COURT: Yeah. You can go ahead and tell them

1 why. Sure.

2 **THE DEFENDANT:** Your Honor, this is one of the
3 inconsistencies that I noticed. This was the 9-1-1 tape,
4 when the victim alleged she called the police. And this
5 is the conversation. This is like at the end of the
6 tape. It says -- the 9-1-1 operator said, do you
7 remember -- no -- he says, he says, he asked the
8 question: Do you remember did he have any weapons? And
9 he said something like when he, looking like there's
10 something more during that statement.

11 The victim stated, Um, he used a knife to cut my tie
12 one time. Um, I didn't see it. I don't know.

13 9-1-1 says, Well, he said, I don't know.

14 Then she says what they did and I could not find it
15 here. This supposed -- this blank portion is supposed to
16 have been read like this: I don't know what he did
17 with -- no, it says: I don't know what they did, not he,
18 with the knife and I could not find it in here. That's
19 what it says. The statement said, I don't know what they
20 did.

21 Your Honor, if I did this crime, kidnapping,
22 criminal sexual conduct, I stole a car, why is the
23 evidence show speaking, the evidence itself speaking of
24 more than one people? And she says during the whole
25 event that it was one assailant. Nobody else was

1 mentioned. So why is, why wasn't it noted in the
2 beginning that -- I mean, this right here shows itself
3 inconsistent. Then it said it's involving more than one
4 person. So if she's lying here, I mean, what else is she
5 lying about?

6 But you can play the tape, ma'am, please.

7 (Whereupon, the 9-1-1 recording was played by
8 Ms. Simmons for the jury.)

9 THE DEFENDANT: Could you rewind that part?

10 MS. SIMMONS: (Complies.)

11 (The 9-1-1 recording continued to be played
12 by Ms. Simmons for the jury.)

13 THE COURT: Do you want to stop it?

14 THE DEFENDANT: Yes, sir.

15 MS. SIMMONS: That was the 9-1-1 CD.

16 THE DEFENDANT: That's another inconsistent thing I
17 was gonna bring up during, on direct examination. But
18 there's many others as well. Like I said, when --

19 Well, you told me not to go into that so I'm not.

20 But just consider all the facts. That's all I ask.

21 Thank you.

22 THE COURT: Yes, ma'am.

23 CLOSING STATEMENT ON BEHALF OF THE STATE (FACTS):

24 MS. ADAMS: Catherine McGough will never forget the
25 nightmare that she endured on Mother's Day of this year.

1 4:38 Sunday afternoon, broad daylight, she was literally
2 at the wrong place at the wrong time. Because when she
3 punched her code in and saw the Defendant walking out,
4 the Defendant, Dennis Temple, also saw her. Because that
5 entry log showed him coming in three minutes later. She
6 knew what he wanted because he saw Catherine alone in her
7 car. And he gave her time to get to her unit and start
8 unloading, and he approached her. He saw she was visibly
9 flustered.

10 And he leaves for just a few seconds to go back to
11 his unit. He's prepared, because he knows what he wants,
12 and it's Catherine, and he's not taking no for an answer.
13 He had a belt flung over his shoulder. He tries to get
14 her to go to his unit willingly with, Will you help me
15 move something? Because he knows what he wants, and it's
16 Catherine.

17 And when she doesn't go, he's prepared, because he
18 has a belt around his shoulder and then he puts it around
19 her neck and drags her to his unit. The evidence is
20 overwhelming. I cannot say it enough, ladies and
21 gentlemen.

22 And when he gets her back, he rapes her, he rapes
23 her again with the bottle of the cleaning solution, he
24 steals her car, he ties up her feet. Catherine wasn't
25 going anywhere.

1 And when you get back in that jury room, I want you
2 to look at all the evidence. I want you to look at all
3 the pictures again. And I want you to notice something
4 about Catherine's car, because the car really is
5 important, it says a lot. Catherine told you when she
6 last saw her car, there was stuff still in the trunk.
7 Those pictures, when the car was recovered, there's
8 nothing in the trunk. And her mother's Mother's Day gift
9 is in the back seat. Catherine left it in the trunk.

10 The Defendant was coming back. He knew what he had
11 to do.

12 It truly does not get any worse than this. When you
13 think about Catherine's D.N.A. being on the inside of a
14 pair of gloves and a hoodie that she never touched, her
15 D.N.A. got there because he touched her. He touched her
16 when he strangled her with his bare hands, he touched her
17 when he punched her, he touched her when he wrapped the
18 belt around her neck and drug her across the parking lot
19 like an animal. He touched her when he forced her on to
20 his mattress in his unit. He touched her when he gagged
21 her repeatedly throughout a nine-hour ordeal.

22 He touched her when he tied her up. He touched her
23 when he hogtied her. He touched her when he pulled her
24 tired body to the edge of his mattress. He touched her
25 when he pulled her shorts and panties down. He touched

1 her when he raped her aggressively and violently, just
2 like she said. And he touched her when he raped her the
3 second time with the bottle in an attempt to destroy the
4 evidence, his semen that he left inside of her. And then
5 when he touched those gloves, he left Catherine inside
6 those gloves.

7 It is time for Catherine's nightmare to end, and it
8 ends right here, right now with y'all. You find this
9 man, Dennis Temple, guilty, guilty as charged. Thank
10 you.

11 THE COURT: All right. Ladies and gentlemen, does
12 anyone need a break before I charge you on the law? If
13 you do, that's fine.

14 A JUROR: (Shook head.)

15 A JUROR: (Shook head.)

16 THE COURT'S CHARGE ON THE LAW:

17 THE COURT: All right. Ladies and gentlemen, thank
18 you very much for your patience. And now it's time for
19 me, as I told you at the beginning of this trial, to
20 charge you on the law. As I told you at the time we
21 began, you and I have very different roles. You have had
22 to listen to the testimony in this case. You will have
23 in the jury room anything that's been admitted into
24 evidence, so anything that's up here that's marked up
25 here you will have. And you have to make a determination

1 about what the facts are.

2 As the Judge I have been required during the course
3 of this trial to make several determinations on legal
4 matters, and, quite frankly, one of the biggest things
5 I've had to do is put together this charge on the law.

6 First let me tell you the same thing that I told you
7 at the beginning of the trial. You will have with you in
8 the jury room these indictments. The fact that a
9 defendant has been indicted in this state should never be
10 discussed by you. These indictments are literally, as
11 you will see, pieces of paper that start the process that
12 ends here today. So you will have them with you, but
13 please don't discuss them. Please understand that the
14 presumption of innocence that Mr. Temple has about him
15 remains with him. As I told you earlier, I used the
16 example as the robe of righteousness or innocence. That
17 robe of innocence and that presumption of innocence is
18 still about his shoulders and will remain about his
19 shoulders until you, the jury, make a determination after
20 due deliberation that that robe of righteousness or
21 innocence should be taken from him.

22 And I also told you and I'll tell you in a few
23 minutes again in a more formal way, the State has the
24 burden of proving each and every element of the crimes
25 charged and must meet that burden.

1 All right. Ladies and gentlemen, the indictments
2 charge the Defendant with two counts of criminal sexual
3 conduct, first degree; kidnapping, and grand larceny of a
4 motor vehicle. I want to remind you again, the fact that
5 the Defendant was arrested, charged and indicted in this
6 case is not evidence in this case and cannot be
7 considered by you as evidence of guilt in this case. Nor
8 does it create any presumption or inference of guilt.
9 The documents simply state the formal charges against the
10 Defendant and also are the formal written instrument
11 which contains those charges.

12 As I said, there are several different charges
13 contained in these indictments. Each charge is a
14 separate and distinct offense. What you will need to do
15 as a jury is you must decide the guilt or innocence of
16 each charge separately.

17 And what I'm gonna ask you to do, Mr. Foreman, and
18 I'll explain to you a little bit more at the very end of
19 this charge, but on the back of each indictment there's a
20 portion that says verdict. All I'll need you to do is
21 write "not guilty" or "guilty" on each separate
22 indictment for each separate charge, sign your name, put
23 the date, and that will be sufficient.

24 Ladies and gentlemen, again, as I've charged you
25 before and told you, the Defendant has pled not guilty to

1 each indictment, and that plea puts the burden on the
2 State to prove the Defendant guilty. A person charged
3 with committing a criminal offense in South Carolina is
4 never required to prove themselves innocent. I charge
5 you that it's an important rule of law that the Defendant
6 in a criminal trial, no matter what the seriousness of
7 the charge may be, will always be presumed to be innocent
8 of the crime for which the indictment was issued unless
9 guilt has been proven by evidence satisfying you of that
10 guilt beyond a reasonable doubt.

11 The presumption of innocence, I charge you, is not
12 merely a legal theory, it's not just a legal phrase.
13 It's a substantial right to which every Defendant is
14 entitled to unless you, the jury, are satisfied from the
15 evidence of the Defendant's guilt beyond a reasonable
16 doubt.

17 You may have a question, what is reasonable doubt?
18 Reasonable doubt is the kind of doubt that would cause a
19 reasonable person to hesitate to act.

20 Now, ladies and gentlemen, I charge you, there are
21 two types of evidence which are generally presented
22 during a trial, there is direct evidence and
23 circumstantial evidence. Direct evidence is testimony of
24 a person who claims to have actual knowledge of a fact,
25 such as an eyewitness. It is evidence which immediately

1 establishes the main fact to be proved.

2 Circumstantial evidence is proof of a chain of facts
3 and circumstances indicating the existence of a fact. It
4 is evidence which immediately establishes collateral
5 facts from which the main fact may be inferred.

6 Circumstantial evidence is based on inference and not on
7 personal knowledge or observation.

8 I charge you that the law makes absolutely no
9 distinction between the weight or value to be given
10 either direct or circumstantial evidence, nor is a
11 greater degree of certainty required of circumstantial
12 evidence than of direct evidence. You should weigh all
13 the evidence in this case, and after weighing all the
14 evidence, if you are not convinced of the guilt of the
15 Defendant beyond a reasonable doubt, I charge you that
16 you must find the Defendant not guilty.

17 Ladies and gentlemen, I charge you that necessarily
18 as a part of your duties you must determine the
19 credibility of witnesses who have testified in this case.
20 Credibility simply means believability in South Carolina
21 under the law. It becomes your duty as jurors to analyze
22 and evaluate the evidence and determine which evidence
23 convinces you of its truth.

24 In determining the believability of witnesses who
25 testified, you may believe one witness or you may believe

1 none of the witnesses. You can believe a portion of what
2 a witness tells you and disregard the remainder of the
3 witness's testimony. You can believe a portion of any
4 person's testimony and disregard the remainder of that
5 testimony.

6 Ladies and gentlemen, I charge you the Rules of
7 Evidence ordinarily do not permit witnesses to testify as
8 to opinions or conclusions. An exception exists for
9 witnesses we call expert witnesses. A witness who by
10 education and experience has become expert in some art,
11 science, profession or calling may state an opinion as to
12 relevant and material matter in which the witness claims
13 to be an expert and may also state the reasons for that
14 opinion.

15 You should consider an expert opinion received in
16 evidence in this case, and, like any other evidence, give
17 it the weight that you think that it deserves. If you
18 decide that the opinion of the expert witness is not
19 based on sufficient education and experience, or if you
20 conclude that the reasons given in support of the opinion
21 are not sound, or that the opinion is outweighed by other
22 evidence, you may disregard the opinion in its entirety.

23 An expert witness's testimony is to be given no
24 greater weight than that of other witnesses simply
25 because the witness is an expert. Further, you are not

1 required to accept an expert's opinion, even though it is
2 not contradicted.

3 Now, ladies and gentlemen, as I said several times,
4 I charge and instruct you and emphasize that the fact
5 that the Defendant did not testify is not a factor to be
6 considered by you in any way in your deliberations and in
7 your consideration of the question of the guilt or
8 innocence of the Defendant. It must not be considered by
9 you in any manner whatsoever.

10 The Defendant, Mr. Temple, in this case has the
11 Constitutional right to remain silent, and the assertion
12 of this right must not be considered by you in
13 deliberations. I repeat that under your oath you are to
14 draw no conclusion whatsoever from the fact that the
15 Defendant in this case did not testify. The fact that
16 this Defendant did not testify should not even be
17 discussed by you in the jury room.

18 The burden, as I stated, is on the State. The
19 Defendant is not required to prove his innocence. The
20 burden of proof remains on the State to prove his guilt
21 beyond a reasonable doubt.

22 Now, ladies and gentlemen, an issue in this case is
23 the identification of the Defendant as the person who
24 committed the crimes charged. The State has the burden
25 of proving identity beyond a reasonable doubt. You must

1 be satisfied beyond a reasonable doubt of the accuracy of
2 the identification of the Defendant before you may
3 convict the Defendant.

4 Identification testimony is an expression or belief
5 or impression by a witness. You must determine the
6 accuracy of the identification of the Defendant. You
7 must consider the believability of each identification
8 witness in the same way as any other witness. You may
9 consider whether the witness had an adequate opportunity
10 to observe the offender at the time of the offense.

11 This will be affected by things like how long or
12 short a time was available, how far or close the witness
13 was, the lighting conditions, and whether the witness had
14 the chance to see or know the person in the past. Once
15 again, I instruct you that the burden of proof is on the
16 State in every element, to prove every element of the
17 crime charged, and this specifically includes the burden
18 of proving beyond a reasonable doubt the identity of the
19 Defendant as the person who committed the crime. If
20 after examining the testimony you have a reasonable doubt
21 as to the accuracy of the identification, you must find
22 the Defendant not guilty.

23 Now, ladies and gentlemen, in order to establish
24 criminal liability, criminal intent is required. For
25 example, the mental state to be proven by the State for a

1 particular crime might be purpose, intent, knowledge,
2 recklessness or criminal negligence. Criminal intent
3 must be proven by the State beyond a reasonable doubt.

4 Criminal intent is always a matter that must be
5 determined by you, the jury, from the circumstances
6 surrounding the situation. There is obviously no way to
7 prove intent to a mathematical certainty. There is no
8 way we can dissect the Defendant's mind to determine what
9 a person had in mind. So the law says that criminal
10 intent may be inferred from the circumstances shown to
11 have existed at the time of the alleged crime. This is
12 how you make a determination of whether or not the
13 element requiring intent was present.

14 It's not necessary to establish intent by direct or
15 positive evidence. But intent may be established by
16 inference in the same way as other facts, by taking into
17 consideration the acts of the parties and all other facts
18 and circumstances of the case.

19 I charge you that criminal intent is a mental state,
20 a conscious wrongdoing. It's up to you to determine what
21 the Defendant intended to do based on the circumstances
22 shown to have existed. Criminal intent can arise from
23 action or by failure to act. It may arise from
24 negligence, recklessness or indifference to duty or to
25 consequences that is considered by the law to be the

1 equivalent of criminal intent.

2 Now, ladies and gentlemen, the Defendant is charged
3 with two counts of first degree criminal sexual conduct.
4 When two or more acts of criminal sexual conduct occur at
5 or about the same time, each act, each act is a separate
6 crime rather than one continuing crime.

7 The first element that the State must prove beyond a
8 reasonable doubt to prove criminal sexual conduct in the
9 first degree is that the Defendant engaged in a sexual
10 battery with the victim. A sexual battery is sexual
11 intercourse, cunnilingus, fellatio, anal intercourse or
12 any intrusion, however slight, of any part of a person's
13 body or of any object into the genital or anal openings
14 of another person's body, except when the intrusion is
15 accomplished for medically recognized treatment or
16 diagnostic purposes.

17 If you find that the State has not shown beyond a
18 reasonable doubt that a sexual battery occurred, you
19 would stop deliberating and your verdict would have to be
20 not guilty. If you find a sexual battery did occur, you
21 must then decide whether the State has proven beyond a
22 reasonable doubt one or two of the following
23 circumstances: That the Defendant used aggravated force
24 to accomplish the sexual battery.

25 I charge you that aggravated force means the use of

1 physical force or physical violence of a high and
2 aggravated nature to overcome the victim. This includes
3 the threat of using a deadly weapon. Or the State must
4 prove that the Defendant committed the sexual battery
5 while the victim was also the victim of forcible
6 confinement, kidnapping, robbery, extortion, burglary,
7 housebreaking, or any other similar act or offense.

8 Now, ladies and gentlemen, the subject -- the
9 Defendant is also charged with kidnapping in violation of
10 16-3-910 of the South Carolina Code. The State must
11 prove beyond a reasonable doubt that the Defendant
12 knowingly and unlawfully seized, confined, inveigled,
13 decoyed, kidnapped, abducted or carried away another
14 person without the authority of law. To do a thing
15 unlawfully is to do it willfully against the law.
16 Knowingly under the law means that, with knowledge,
17 consciously and not accidentally. Seize means to take
18 hold of a person suddenly or forcibly. Confine means to
19 limit, restrict or enclose within bounds, imprison, or
20 shut or keep in. Inveigle means to lure, entice or lead
21 astray by false representation, promises or other
22 deceitful means. Decoy means to lure by, or as if by
23 decoy. A decoy is something to entice a person into a
24 trap. Kidnap is to remove a person against his will by
25 unlawful force or by fraud. Abduct means to carry off

1 secretly or by force for an illegal purpose. Carry away
2 means to remove.

3 The State does not have to prove that the Defendant
4 did all of these things. Instead, if you find beyond a
5 reasonable doubt that the Defendant did any of these
6 things, you may find the Defendant guilty of kidnapping.
7 Something done without the authority of law is something
8 the law does not sanction, permit, allow, condone or
9 provide justification for. The kidnapping does not have
10 to be for personal or monetary gain or for any illegal
11 purpose. It may be for any reason whatsoever.

12 Now, ladies and gentlemen, the Defendant is also
13 charged with grand larceny of a motor vehicle. The State
14 must prove to you beyond a reasonable doubt that the
15 Defendant took a motor vehicle that belonged to someone
16 else against the will or without the consent of the other
17 person. The slightest removal of the vehicle or the
18 complete possession of the motor vehicle, even for an
19 instant, by the Defendant is enough to show a taking or a
20 carrying away of the motor vehicle.

21 The State must also prove beyond a reasonable doubt
22 that the Defendant intended to permanently deprive the
23 owner of the motor vehicle. Finally, the State must
24 prove that the value of the motor vehicle taken was
25 \$5,000 or more.

1 Now, ladies and gentlemen, there are several
2 different verdicts that you can find as you begin your
3 deliberations. You can find the Defendant guilty or
4 innocent of each individual crime set forth in these
5 indictments. But as I said earlier, you have to look at
6 each indictment separately. So you find him guilty or
7 innocent on one and then you move to the next. How you
8 go about that is up to you. Which one you take first is
9 up to you. But you have to address each one
10 individually. Your verdict has to be unanimous. You
11 have to all agree on the guilt or innocence of this
12 person.

13 What I'm gonna do is I'm gonna send you back now and
14 ask you not to begin your deliberations. I'm gonna give
15 both parties the opportunity to ask me to charge
16 something else. They have not had input into what my
17 charge is. If I decide to change or alter or add to my
18 charge or subtract from it, I'll bring you back in and do
19 that.

20 If I decide to leave my jury charge on the law as it
21 is, in just a few minutes we'll deliver to you all the
22 evidence and the indictments.

23 Mr. Foreman, as I said, if you look on the back -- I
24 think it's pretty clear -- but it's in the bottom
25 left-hand portion of this and it says "Verdict." On each

1 indictment you need to write "guilty" or "not guilty" and
2 sign your name.

3 And again, if you have a question or a problem,
4 communicate with me through the pad, just write out the
5 problem or question, sign your name, put the time on it
6 and knock on the door and they'll bring it to me.

7 If you want me to recharge any portion of this
8 charge, I'll be happy to do it. If you want me to read
9 the whole thing to you again, I'd be happy to do it.
10 Whatever you need, I'll do, as long as the law allows me
11 to do that. If you ask me a question that I can't
12 answer, or won't answer, I'll bring you back in and tell
13 you I can't answer it or won't answer it. So I'll
14 address any problem you have.

15 If you need any portion of the testimony replayed,
16 we can arrange that. It's all on tape. We have to find
17 it, so it might take us a minute. So what I will need
18 you to do now is each of you except for the two
19 alternates go back to the jury room and give me just a
20 minute. I suspect that in just a few minutes I'm going
21 to deliver all the evidence and these indictments, and at
22 that point you can begin your deliberations.

23 Mr. Bibb, here's a pad.

24 (Whereupon, the jury left the courtroom at
25 approximately 3:46 p.m., except for the two

1 alternate jurors.)

2 **THE COURT:** I need you all to step back there, too.
3 But you can't go in the jury room. Y'all just wait out
4 in the hall and I'll be out in just a second.

5 (Whereupon, the two alternate jurors left the
6 courtroom.)

7 I never had that happen. I didn't know who they
8 were.

9 All right. From the State, any additions,
10 subtractions, or alterations?

11 **MS. SIMMONS:** No, Your Honor. It seems to be what
12 we were previously provided.

13 (The Defendant conferred with Mr. Tavernier
14 off the record.)

15 **THE COURT:** Anything from Mr. Temple? I'll give you
16 a minute if you need it.

17 **THE DEFENDANT:** Um, yes, Your Honor. You might have
18 covered this issue, but I'm not quite sure. The fact
19 that informing the jury that anything that I said in my
20 opening as well as the State may not be considered as
21 evidence?

22 **THE COURT:** The fact that the opening and closing
23 aren't evidence?

24 **THE DEFENDANT:** Yes.

25 **THE COURT:** I mean, I told them that once before. I

1 don't mind bringing them back in and telling them again
2 if you want me to, again, in the abundance of caution.

3 (The Defendant conferred with Mr. Tavernier
4 off the record.)

5 THE DEFENDANT: Yeah. Also in the testimony that in
6 regards to the witnesses...

7 (The Defendant conferred with Mr. Tavernier
8 off the record.)

9 THE DEFENDANT: My questions during...

10 (The Defendant conferred with Mr. Tavernier
11 off the record.)

12 MS. SIMMONS: Judge, if I may, I can maybe clear it
13 up.

14 THE COURT: Again, it's a smaller courtroom.

15 I think the issue is that you might want me to
16 instruct them that at any time in your questioning you
17 use the first person "I" instead of referring to the
18 perpetrator, they should disregard that.

19 THE DEFENDANT: Yeah. Mr. Tavernier told me that
20 previously, but I forgot.

21 THE COURT: That's all right.

22 Any objection to that?

23 MS. SIMMONS: Judge, no objection to that.

24 THE COURT: All right. In the abundance of caution,
25 I'm gonna tell them that. Okay.

1 Bring them back in one more time.

2 (The jury entered the courtroom at
3 approximately 3:50 p.m.)

4 THE COURT: Y'all have extra gloves, don't you?

5 MS. SIMMONS: Yes, Your Honor.

6 MS. ADAMS: Yes, Your Honor.

7 THE COURT: Ladies and gentlemen, I did want to tell
8 you a couple of things, two things, actually. I'm sure I
9 told you this, but I want to reiterate that anything said
10 by the State or the Defendant in their opening or closing
11 arguments are not evidence and shouldn't be considered as
12 evidence.

13 Also I want to address something that doesn't come
14 up often but has in this case. In any situation in which
15 the Defendant is questioning a witness and they use the
16 first person "I" instead of "the alleged perpetrator" or
17 "the person who did this" and refer to themselves, you
18 should disregard that, too. Obviously that's a difficult
19 syntactic question, but just disregard that.

20 I'll also tell you I'm gonna send gloves back. If
21 you want to touch any evidence, I'll have gloves for you.
22 If you don't want to, that's fine, you don't have to.

23 So that would be the only change I would make. So
24 in just about two minutes you'll have all the evidence
25 and you can finally begin your deliberations. I

1 appreciate your patience. Go back there one last time.

2 And if the two alternates would just wait in the
3 hall, I'll be right out.

4 (Whereupon, the jury left the courtroom to
5 the jury room and the two alternates left the
6 courtroom to wait in the hallway at
7 approximately 3:52 p.m.)

8 THE COURT: Mr. Temple and Mr. Tavernier, y'all come
9 up and make sure all this evidence has been marked and
10 we'll send it back with the indictments and we'll just
11 let them go.

12 MS. SIMMONS: Judge, I'm gonna separate the Court's
13 exhibits into a folder and put them somewhere else.

14 (Whereupon, the jury began their
15 deliberations at approximately 4:00 p.m., and
16 a verdict was reached at approximately 4:15
17 p.m.)

18 THE COURT: All right, ladies and gentlemen, they do
19 have a verdict.

20 Let me say this, and I sort of jokingly said earlier
21 that I'm glad somebody recognized I was in charge. I
22 want to say something that I mean, and I don't want to
23 have to prove to anybody that I mean it. But I won't
24 tolerate one word of outburst, no matter what the verdict
25 is, from either side, from the victim's or the

1 Defendant's side, anything. I just don't -- that's a pet
2 peeve of mine, I don't take it. And so I told the
3 officers if you make a sound or you make a disruption,
4 they are taking you into custody, okay? Fair warning.
5 All right.

6 You can bring them in.

7 (The jury entered the courtroom at
8 approximately 4:31 p.m.)

9 THE COURT: All right, Mr. Foreman, I understand you
10 have a verdict?

11 THE FOREMAN: Yes, Your Honor.

12 THE COURT: If you would hand it to Mr. Bibb.

13 THE FOREMAN: (Complies.)

14 THE COURT: Thanks.

15 All right. You can publish it.

16 VERDICT OF THE JURY:

17 THE CLERK: 2010-GS-37-889, the *State versus Dennis*
18 *Temple*, indictment for criminal sexual conduct, first
19 degree: Guilty.

20 2010-GS-37-886, *State versus Dennis Temple*, grand
21 larceny: Guilty.

22 2010-GS-37-888, the *State versus Dennis Temple*,
23 kidnapping: Guilty.

24 2010-GS-37-887, the *State versus Dennis Temple*:
25 Guilty.

1 Ladies and gentlemen of the jury, if this was your
2 verdict and is still your verdict, please signify by
3 raising your right hand.

4 The record will reflect that all 12 raised their
5 hands.

6 THE COURT: Ladies and gentlemen, I have to send you
7 out for the last time. I'll be back to speak with you
8 personally in just a few minutes. Thank you.

9 (Whereupon, the jury left the courtroom at
10 approximately 4:33 p.m.)

11 THE COURT: Any motions or other matters from the
12 State?

13 MS. ADAMS: No, sir, Your Honor.

14 THE COURT: Mr. Temple?

15 DEFENDANT'S MOTIONS:

16 THE DEFENDANT: Yes, sir. I would like to renew all
17 of my previous motions.

18 THE COURT: Okay. And I'll consider them renewed
19 and incorporate all of your arguments as if you made them
20 all today. And you are protected on all of those
21 motions.

22 THE DEFENDANT: And judgment not...

23 THE COURT: Notwithstanding the verdict?

24 THE DEFENDANT: Yes. Not guilty.

25

1 COURT'S RULING ON DEFENDANT'S MOTIONS:

2 THE COURT: All right. And that motion is denied,
3 but you are protected.

4 All right. What I'm gonna do is I'm gonna go back
5 and I'll give them the option of coming back in here.

6 Have you got all the paperwork?

7 MS. ADAMS: Yes, sir.

8 THE COURT: Give me about four to five minutes and
9 I'll be back in.

10 (Whereupon, the Court left the courtroom at
11 approximately 4:34 p.m., went in and spoke
12 with the jury, and the Court returned to the
13 courtroom at approximately 4:42 p.m.)

14 THE COURT: How long has Mr. Temple been in jail?

15 THE DEFENDANT: Um...

16 THE COURT: Do you know how many days, Mr. Temple?

17 MS. ADAMS: Your Honor, I believe it's been since
18 May the 11th.

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Okay. All right.

21 Come on up, Mr. Temple.

22 MS. ADAMS: Your Honor, the victim's family would
23 like to address the Court.

24 THE COURT: I would be happy to hear from anybody
25 before I pass sentence.

1 Yes, ma'am.

2 THE VICTIM: This, this is impossible for me to put
3 in words, to explain how this has affected me. And no
4 amount of time in prison is gonna make up for what
5 happened. But I will not be at peace knowing that at any
6 point he is free to walk the streets to hurt me or anyone
7 else again.

8 THE COURT: Let me just say to you that I've been a
9 judge for 10 years and I was a lawyer for 20. And I mean
10 this sincerely. I think you may be the bravest person
11 I've ever seen in the courtroom.

12 THE VICTIM: Thank you.

13 THE COURT: I mean, I've seen a lot of men that
14 were -- you know, I've got a brother who's been to Iraq
15 four times, and I think he would say the same thing. So
16 I wish you the best. All right.

17 VICTIM'S FATHER: Your Honor, I'm Catherine's dad.
18 I haven't prepared anything to say, but I have a lot to
19 say.

20 I'm not as strong as Catherine. What Dennis Temple
21 did is so appalling, it is so shocking, that it's
22 difficult to talk about it. He attacked her in broad
23 daylight at a public place and put her through nine hours
24 of the worst nightmare a person can imagine.

25 She could have died at any point that time. She

1 could have suffocated, she could have been strangled.
2 But she survived and it's a miracle she survived. It's a
3 testament to her strength and her wit and her
4 determination.

5 THE COURT: Yes, I agree.

6 VICTIM'S FATHER: But, Your Honor, it's important
7 for her healing process. It's been her dream to attend
8 Clemson University since the tenth grade. And she was
9 living that dream until Mother's Day. And from that
10 point on it's been a nightmare. She can't attend school.
11 She has posttraumatic stress disorder, she's had
12 flashbacks, panic attacks, can't sleep.

13 I mean, will she recover? We don't know. Will she
14 ever be able to get back on track? I mean, hopefully. I
15 know I would never bet against her, because the same
16 strength that got her here will get her through it.

17 But it's important to her that Dennis Temple get the
18 maximum sentence, whatever the law will allow, the
19 maximum. If he ever walks the street, and I don't think
20 anybody can be safe on the street with Dennis Temple,
21 especially no woman will be safe, okay? So, I mean, I'm
22 asking you, I'm pleading with you, give Dennis Temple the
23 maximum the law will allow.

24 The bottom line is if he doesn't deserve the
25 maximum, then, my gosh, what would somebody have to do to

1 get the maximum? I can't even imagine. Please, show him
2 no mercy, show him no compassion, because he showed
3 Catherine none. He deserves the maximum. So please give
4 him what he deserves. Thanks.

5 THE COURT: All right.

6 VICTIM'S SISTER: Your Honor, my name is Carmen, I'm
7 one of Catherine's sisters. (Crying.) What has been
8 taken from my sister and my family can't be measured and
9 can't be gotten back.

10 There are numerous times that she could have died,
11 but she survived thanks to her strength and her
12 perseverance, and by the grace of God that there was a
13 phone in there. She saved her own life.

14 But every part of my life and my family's life has
15 changed. My relationship with my husband of 10 years, my
16 ability to perform my job. Everything has changed. I
17 have trouble sleeping, I have headaches, nausea, muscle
18 pain. And now I have a heart condition. I was diagnosed
19 just a couple of weeks ago. I'm on medication for
20 depression, I'm on medication to slow my heart rate and
21 decrease my blood pressure. The weight on my heart is
22 very heavy, literally.

23 What happened was horrific and should never have
24 happened. Men are afraid that women will make fun of
25 them or reject them. Women are afraid that men are gonna

1 kill them. One in four women are victims of sexual
2 assault. There are four women in my family, and
3 Catherine was the one.

4 I'm asking you today to give Temple the maximum
5 sentence possible or more for what he's done to Catherine
6 and what he's done to my family so that he can never,
7 ever, ever again get his disgusting evil hands on another
8 woman. Thank you.

9 THE COURT: Thank you.

10 VICTIM'S MOTHER: Your Honor, this is my family, and
11 yes, it has affected us greatly. But I know through
12 Catherine's strength and ours that we will heal. We are
13 a small family and we will move on and we will heal.

14 But he has to be in jail off the street. We have to
15 feel safe for a very -- we have to go face the rest of
16 our lives. Face him with the maximum penalty so that we
17 can move forward.

18 THE COURT: Anything else from the State? What is
19 his record?

20 MS. ADAMS: Your Honor, he has a conviction for
21 possession of cocaine and possession with intent to
22 distribute cocaine from '93, proximity in '95, D.U.S.
23 second in '95, malicious injury to personal property in
24 '95, simple assault in '95. He received 10 years in 2001
25 for strong arm robbery, fraudulent check in 2007, petit

1 larceny in '09. And he's got a false information to law
2 enforcement out of Georgia, Rome, in 1992. And those are
3 his convictions. He does have pending charges in
4 Greenville.

5 THE COURT: Anything else from the State?

6 MS. ADAMS: No, Your Honor.

7 THE COURT: Ma'am, did you want to say anything?
8 Back there? Come on up. If you would give us your name
9 for the record.

10 DEFENDANT'S SISTER: Yes. My name is Andrianna
11 Temple.

12 THE COURT: Yes, ma'am.

13 DEFENDANT'S SISTER: And I'm Dennis Temple's sister.
14 Does this come out?

15 THE COURT: Probably not. I can hear you. You're
16 okay. You don't need to talk into that. I'm okay.

17 DEFENDANT'S SISTER: I just want to say that Dennis
18 and I basically raised ourselves and that we have no
19 family that we can really depend upon. And I also want
20 to say that no man can judge and say what's gonna become
21 of a life. I was raised in the ghetto streets. I now
22 possess a Bachelor's Degree in Business, a Master's
23 Degree in Management, and a Ph.D.

24 So no one can say what can become of a life. A
25 person can turn their lives around. As a matter of fact,

1 Dennis was on his way to enter into a paralegal program
2 and then looking into going to law school. He had goals
3 set for his life.

4 And I ask and pray for mercy. That we let God be
5 the judge. And that we give mercy in this court today
6 because he deserves an opportunity to have children and
7 have a family and to pursue a career and to do those
8 things that we enjoy every day in our lives. So I ask
9 for mercy.

10 THE COURT: All right. Thank you, ma'am.

11 Mr. Temple, anything you want to say before I do the
12 sentence?

13 THE DEFENDANT: Your Honor, I still declare my
14 innocence of these charges. I think that if I would
15 have -- since I've been locked up in the Oconee County
16 Detention Center, I have been put in an eight-by-six
17 cell. I have not really been able to defend myself
18 against these charges until recently. Six months in an
19 eight-by-six cell. I have not had the access to a
20 lawyer. I feel that -- I mean -- that's all I got to
21 say, Your Honor.

22 THE COURT: All right. You know, I'm a little bit
23 speechless. First I would say that this victim is
24 extraordinarily strong and I suspect that she will be
25 okay.

1 Mr. Temple, I've been with you in the courtroom
2 since May. And, as I said, I've been a judge for 10
3 years. I was sitting up here thinking yesterday what you
4 could have done with your life if you had done the right
5 thing. And I deal with lawyers who probably don't have
6 your I.Q. And it's just the saddest thing to me. I
7 mean, I just, you know, it's just -- apart from all that
8 this victim went through, it's just sad. I look at your
9 sister back there. I've been watching her this week.
10 She cares about you. And I don't know why you got to
11 this point.

12 But one of the things that I'm most affected by is
13 you have a right to a trial and you exercised that right
14 and everyone tried to make sure that it was fair. But
15 you put this victim through the trauma of having to come
16 back and testify and relive it. And that means something
17 to me. And you didn't have to do that. And I think the
18 jury's verdict was correct. And I'm sure, as you said
19 last week, you were a hundred percent certain that the
20 Court of Appeals will overturn the verdict. They'll get
21 their opportunity.

22 SENTENCE OF THE COURT:

23 THE COURT: What I'm gonna do on each one of these
24 things: The maximum on the C.S.C. first is 30 years, the
25 maximum on kidnapping is 30, and the maximum on grand

1 larceny is 10. What I'm gonna do is sentence you on the
2 criminal sexual conduct to 30 years; on the second
3 criminal sexual conduct, 30 years to run consecutive; on
4 the kidnapping charge, 30 years to run consecutive; and
5 on the grand larceny charge, 10 years to run consecutive.

6 Good luck to you.

7 MS. ADAMS: Thank you, Your honor.

8 THE DEFENDANT: Thank you, Your Honor.

9 THE COURT: Thank you.

10 Let me also put on the record something about
11 Mr. Tavernier, who has been sitting here at my order.
12 And I mean this sincerely. Do an Order for me. I
13 appreciate what you did, I appreciate you sitting there
14 and being available. I appreciate all the time you put
15 into it. The State appreciates it, too, I'm certain.
16 And make sure you do an Order and I'll make sure you're
17 gonna get -- it wasn't wasted time.

18 All right. Thank you very much. We're adjourned.

19 MS. ADAMS: Thank you, Your Honor.

20 (Whereupon, the trial in the *State of South*
21 *Carolina versus Dennis Temple* was concluded
22 at approximately 5:00 p.m.)

23 ** End of Requested Certified Transcript of Record **

24

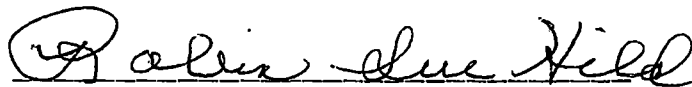
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Certificate of Court Reporter

I, the undersigned, Robin Sue Hild, FCRR, RPR, Official Court Reporter for the Tenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Oconee County, South Carolina, on the 15th day of December, 2010.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

September 9, 2011

A handwritten signature in cursive script, reading "Robin Sue Hild". The signature is written in dark ink and is positioned above the printed name and title.

Robin Sue Hild, FCRR, RPR
Circuit Court Reporter

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Oconee County

J. Cordell Maddox, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DENNIS TEMPLE,

APPELLANT

Appellate Case No. 2011-182806

ANDERS BRIEF OF APPELLANT

WANDA H. CARTER
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
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ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

The trial judge erred by what was in effect coercing appellant to appear pro se at trial because although appellant waived his right to counsel prior to trial; ultimately, he rescinded that waiver after the jury was selected and re-asserted his right to counsel by requesting the representation of appointed counsel for his trial.

STATEMENT OF THE CASE

Appellant Dennis Temple was convicted per jury trial of two counts of first degree criminal sexual conduct, grand larceny, and kidnapping during the December 2010 term of the Oconee County General Sessions Court before Judge J. Cordell Maddox. **Appellant appeared pro se at trial.** Kurt Travernier appeared as stand-by counsel at trial. Appellant was sentenced to imprisonment for a period of one-hundred (100) years.

Appellant appealed. This brief follows.

ARGUMENT

The trial judge erred by what was in effect coercing appellant to appear pro se at trial because although appellant waived the right to counsel prior to trial; ultimately, he rescinded that waiver after the jury was selected and re-asserted his right to counsel by requesting the representation of appointed counsel for his trial.

At trial, Catherine McGough testified that around 4:30 pm on the afternoon of May 9, 2010, she was putting her dormitory items in her storage unit at All Safe Storage located in Seneca, South Carolina, and then began walking to her car when she encountered a black male (whom she identified as appellant at trial and after viewing a photograph layout after the incident)¹ who wanted her to purchase shoes he was selling at that time. McGough stated that she showed no interest, and entered her car and began to leave until she realized that she left open the door to her storage unit. McGough explained that when she went back to close the door, appellant pushed her down in the unit and managed to place a belt around her neck. Thereafter, appellant managed to guide her to another storage unit whereinafter he placed his penis and a bottle of solution into her vagina, and then kept her tied up inside the storage room while he fled in her vehicle. McGough stated that she managed to call 911 from a cell phone and waited for police to arrive. Tr. 84, l. 5-p. 124, l. 7.

Oconee Officer Neill Burkett testified that he was dispatched to the crime scene soon after the 911 call came in at 1:04 a.m. on May 10, 2010. Tr. 158, l. 7 – p. 162, l. 6. Officer Brian Danielson transported McGough from the incident location to the local hospital. Tr. 214, l. 18 – p. 215, l. 21. Subsequently, Officer Greg Reed created a photographic lay-out, which he showed to McGough, who in turn identified the picture of appellant as the perpetrator. Tr. 259, l. 6 – p. 267, l. 21; Tr. 277, l. 23 – p. 278, l. 1.

¹ Tr. 259, l. 6 – p. 267, l. 21; Tr. 227, l. 23 – p. 278, l. 1.

From the outset of the case, appellant expressed his unhappiness with all three of his court appointed attorneys assigned to represent him in the case. At the pretrial hearing dated June 30, 2010, Judge Alexander S. MacCaulay appointed Wilson Burr to represent appellant. Tr. 5, l. 5 – p. 6, l. 14. Later, the case was sent out of Burr’s office and assigned to trial counsels Sarah Drawdy and Keith Denny. During another pretrial hearing held before Judge Maddox on July 29, 2010, appellant requested that counsels Drawdy and Denny be removed from his case and asked for time in which to obtain private counsel to represent him. Both of appellant’s requests were granted by Judge Maddox. Tr. 4, l. 3 – p. 10, l. 4. On another pretrial hearing held on September 14, 2010, Judge Maddox learned that appellant had not retained private counsel and went on to appoint Kurt Tavernier to represent appellant the case. Tr. 4, l. 6 – p. 6, l. 3; Tr. 9, l. 22 – p. 12, l. 20; Tr. 17, l. 6 – p. 19, l. 7. See Order of Appointment of Counsel dated September 27, 2010. Tr. 78. Then later, during a hearing held on October 21, 2010, Judge Maddox accepted appellant’s voiced displeasure with Kurt Tavernier and his apparent decision to represent himself at trial by default, and then appointed Kurt Tavernier as stand-by counsel for trial. Tr. 3 l. 22 – p. 23, l. 11. See Order of Appointment of Stand-by Counsel dated November 8, 2010. Tr. 111-118. On December 7, 2010, Judge Maddox accepted appellant’s apparent pro se status for trial and again reiterated that Kurt Tavernier would remain seated as stand-by counsel at trial. Tr. 79, l. 18 – p. 87, l. 18.

Next, on the actual trial date and minutes after the jury was selected appellant requested the full assistance of appointed of counsel (presumably Tavernier) to represent him at trial, which was in effect appellant’s plea to neither proceed pro se nor receive stand-by legal assistance, but rather to receive the full assistance of appointed counsel in the case. Tavernier advised the trial judge that appellant was requesting “a continuance or that in same way or form that I might be able to

represent him in the trial.” Tr. 60 l. 7-10. The state argued that this case was fast-tracked due to appellant’s speedy trial motion and that a reversal of appellant’s waiver of his right to counsel would place an undue burden on the prosecution. Tr. 61, l. 10-p. 62, l. 10. The Court ruled as follows:

The Court: I understand your motion. And like I said, one of the main things I want to do is protect your rights, as we talked about last week in answer for an appeal. At this late date, after all the questioning that I’ve done, I’m gonna deny your motion for a continuance....I understand at this point—I’ve been concerned all along that we would get up here and you might be overwhelmed with the legal proceedings, but I’m gonna continue to order that Mr. Tavernier sit with you and respond to your questions. Tr. 66, lines 12 – 22.

It is well established that per Faretta v. California, 422 U.S. 806 (1975), that an accused may waive his Sixth Amendment right to counsel and proceed pro se at trial. State v. Roberts, 369 SC 580, 632 S.E. 2d 871 (2007), State v. Thompson, 355 SC 255, 584 S.E. 2d 131 (2003), State v. Boykin, 324 SC 552, 478 S.E. 2d 689 (1996). To effectuate a valid waiver of the right to counsel, the two-pronged Faretta test requires that the accused be advised of his right to counsel and adequately waived of the dangers of self-representation. State v. Thompson, supra. Although appellant was advised under the Faretta requirements; nonetheless, immediately after the jury selection, appellant put forth a waiver of his prior waiver of the right to trial counsel’s assistance at trial, but the trial judge failed to grant the waiver of his counsel waiver.

A waiver is the intentional relinquishment of a known right. Johnson v. Zerbst, 304 U.S. 458 (1938). Therefore, inasmuch as appellant had a right to waive counsel and appear pro se, he also had a right to waive his right to appear pro se and then re-assert his right to counsel de novo. It is apparent from the record that his second waiver was a valid waiver because appellant stated that he indeed wanted the continuance to consult with Tavernier so that he (Tavernier) could represent

him; however, he “got tied up” on other motions (venue changes and pretrial publicity) and forgot to ask, but he was asking for Tavernier to represent him at trial. Tr.60, l. 24 – p. 61, l. 7; Tr. 62, l. 12 – p. 63, l. 10. Therefore, since appellant validly waived the known right to self representation, which really occurred by default prior to trial, and then chose to re-assert his Sixth Amendment right to counsel, this second waiver (of self representation) should have been received and the full appointment of counsel re-instated as opposed to a summary dismissal of the second waiver.

Furthermore, it appeared as though appellant’s request for counsel was dismissed in part due to the fact that appellant was displeased with all assigned attorneys, which led to the assumption that the counsel issue was being used as a dilatory tactic to delay his trial. However, in cases where it is believed that intentional delay is suspected when a client makes motions regarding counsel’s assistance, the trial judge is required to inquire as to the reason for a request regarding counsel and ascertain whether there is good cause for the request. See United States v. Goldberg, 67 F3d 1092 (3rd Cir. 1995). Here, it appears that appellant had good cause for re-asserting his right to counsel to the extent that his pre-occupation with his pre-trial motions rendered him with the inability to approach the court again about his pro se waiver and the re-assertion of his right to the full assistance of counsel in the case.

At best, due process requires a hearing on “the record,” especially in waiver of counsel questions “to be sure, the....record is competent” regarding the matter in keeping with Johnson v. Zerbst, supra, see Superintendent of the Powhatan Correction Center v. Barnes, 221 Va. 780, 273 S.E. 2d 558 (1981), and United States v. Goldberg, supra. As it stood, appellant did not receive his required Faretta warnings **again prior to trial** that he had a right to counsel and that there were dangers and disadvantages associated with self representation.

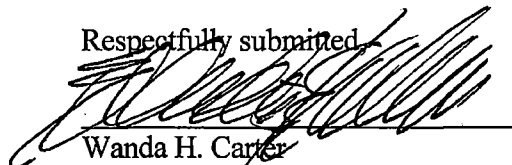
The Sixth Amendment clearly states that in all criminal cases, the accused shall have the assistance of counsel for his defense and if indigent, the accused shall have appointed counsel. Gideon v. Wainwright, 372 U.S. 335 (1963). The erroneous deprivation of a defendant's fundamental right to the assistance of counsel is per se reversible error and never harmless error. Chapman v. California, 386 U.S. 18 (1967).

The trial judge erred in allowing appellant to be tried without the assistance of counsel because although appellant waived the right to counsel prior to trial, he rescinded that waiver after the jury was selected and re-asserted his right to the assistance of appointed counsel to represent him at trial. This error violated appellant's Sixth Amendment right to counsel, which is also guaranteed under article 1, §14 of the South Carolina State Constitution.

CONCLUSION

Based on the following argument, appellant requests that his convictions and sentences be vacated and his case remanded for a new trial complete with the appointment of counsel.

Respectfully submitted,



Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 28th day of September, 2012.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

 Appeal from Oconee County

 J. Cordell Maddox, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DENNIS TEMPLE,

APPELLANT

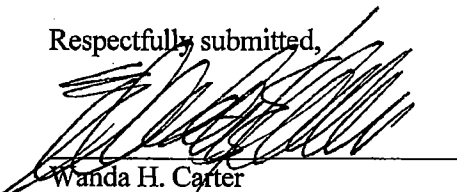
 PETITION TO BE RELIEVED AS COUNSEL

Counsel for Dennis Temple states:

1. She is Deputy Chief Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. She has reviewed the record of appellant's trial before Judge J. Cordell Maddox, Jr., which was held on December 15, 2010, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, she asks the Court to relieve her as counsel for Dennis Temple.

Respectfully submitted,



 Wanda H. Carter
 Deputy Chief Appellate Defender

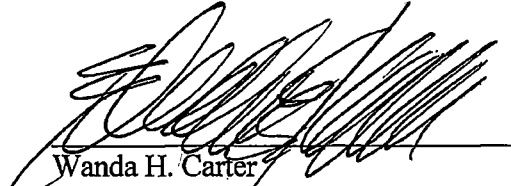
ATTORNEY FOR APPELLANT

This 28th day of September, 2012.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Final Brief of Appellant complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

September 28th, 2012



Wanda H. Carter
Deputy Chief Appellate Defender

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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Oconee County

J. Cordell Maddox, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

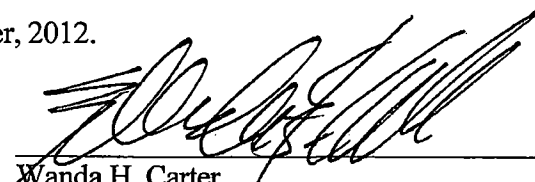
V.

DENNIS TEMPLE,

APPELLANT

CERTIFICATE OF SERVICE

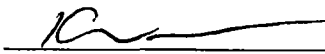
The undersigned attorney hereby certifies that a true copy of the Anders Brief of Appellant and record on appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at P.O. Box 50666, Columbia, SC; and on Dennis Temple, #274802 at Lieber Correctional Institution, this 28th day of September, 2012.



Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 28th day of September, 2012.

 (L.S.)
Notary Public for South Carolina

My Commission Expires: October 2, 2013.

STATE OF SOUTH CAROLINA

IN the Court of Appeal

Appeal from Oconee County

J. Cordell Macdiox Jr. Circuit Court Judge

THE STATE,

Respondent,

v.

DENNIS Temple,

APPELLANT,

Appellate Case NO. 2011 - 182806

PRO SE brief

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SC Court of Appeals

Dennis Temple
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Constitutional provisions

S.C. Const Art. I § 10	15
U.S. Const. Amend IV	10

STATEMENT OF ISSUE ON APPEAL

Did the judge err when he failed to suppress the evidence obtained from the arrest warrants that was issued upon a supporting affidavit that did not link Appellant to the criminal activity or storage unit # 193, and failed to link the storage unit #193 to appellant.

Did the state commit perjury upon the court when it contented that this case was fast-tracked due to appellant's speedy trial motion.

STATEMENT of the case

Appellant, Dennis Temple was convicted by jury trial of two counts of first degree criminal sexual conduct, grand larceny, and Kidnapping during the December 2010 term of the Oconee County General Sessions Court before Judge J. Cordell Maddox. Appellant appeared pro se at trial. Kurt Travernier appeared as stand-by counsel at trial. Appellant was sentenced to imprisonment for a period of one-hundred (100) years.

Appellant appealed, This pro se brief follows.

ARGUMENT

Did the Judge err when he failed to suppress the evidence obtained from the arrest warrants that was issued upon a supporting affidavit that did not link Appellant to the criminal activity or storage unit # 193, and failed to link the storage unit # 193 to Appellant.

See. Dec 7, 2010. Tr. 24.1.19 - p 25.1.1-3; Tr. 26.1.9-25; Tr. 28.1.5-13.

On May 10, 2010 a 19 year old white female Clemson student named Catherine McGough stated to Oconee County police officers in a voluntary Sworn statement the following:

" On May 9th 2010 at 4:30 pm I drove to All - safe Storage facility in Seneca Sc in my 2008 Honda Accord (two-door and gray). upon entering the gate I saw the assailant walking out of the entrance. He was a black man somewhere between the age 20 -

and 40 wearing a gray sweat-suit, I proceeded to my storage unit, unit 177, parked my car, left it unlocked, and left the windows rolled down. I unlocked my storage unit, lifted the door, left the lock on the door, and set my keys on the trunk of the car after I popped the trunk. I had unloaded about half of my load, so there was a square basket container a wire pineapple garden decoration (3ft tall) and a few other miscellaneous objects, when the assailant walked towards me. He was wearing the same clothing and was carrying two types of tennis shoes in either hand. I noted that behind him was a open storage unit which I later found out was in fact his). All I could see inside was a mattress propped up on its long skinny side, creating a horizontal barrier in the doorway. As he approach, he asked what my shoe size was (he was about 20ft away from me at this point). I replied "7"

as I stepped away from my storage unit. He asked me once he got about 12 ft away from me, if I was interested in either of these shoes. They were both nike running shoes one was pink with a dollar bill pattern printed on it. The other was orange. I told him I was saving up for a trip and that I shouldn't splurge. He asked where I was going at this point I was a little uncomfortable so I was looking for my keys so that I could finish up. I had forgotten I had placed them on the trunk, I responded "Ireland". He asked if that was where I was from. I responded vaguely with "sort of". He walked away. I was still looking for my keys when he walked back towards me (I saw that he had gone into the open storage unit). This time he had one shoe and a belt slung over his right shoulder. I was quite uncomfortable and flustered at this point, so I may have acted flustered. He asked if I was alright. I responded that I had had a busy morning. I c ssed -

the trunk. He asked if I would help him move something. I asked what it was. He hesitated and said a dresser sort of thing "(There is no dresser anything in his unit). I said that I didnt mean to be rude but that I had to get going. I had walked to the drivers side and was at the door when he pointed out that I had left the storage unit open and unlocked. As much as I wanted to leave I decided to closed the unit. I closed the door but it got caught on another square basket. He was next to me at point he helped me move the box. Then as I was standing up he pushed me forward into the unit. At the time there was a clear isle in the middle of the unit that was about 1 to 2 feet wide that I fell into. I landed on my stomach, but quickly flipped over to my back. I still had my wallet in my right hand, my wallet is a black 6 inch wallet with the keys to my car, my dorm room and storage Unit attached. I also still had my Prescripion glasses on. After I Flipped I started screaming "get the fuck off of me" and "help" as loud as I could while -

detering him by kicking. In the process I lost my shoes. I was wearing sparry boat shoes, a pair of NAVY shorts, black panties, a nude bra and a white scoop-neck T-shirt. I took my car key and jabbed it into the left side of his neck. At this, he punched me square in the nose so hard that I lost my grip on the keys and it broke my glasses. I continued screaming, but he then strangled me with his hands - etc... etc.

See. Sworn written statement by the alleged victim Catherine McGough or see Exhibit A, 1-7.

On May 10, 2010 Oconee County Sheriff's Department issued (3) three arrest warrants for the Appellant's (Dennis Temple) arrest for kidnapping, Criminal Sexual Conduct, 1st degree, and Grand Larceny based upon the above Sworn statement of Catherine McGough. see Exhibit B, C, D

Note: This Sworn Statement by Catherine McGough never mention Appellant's name or storage unit # 193.

LEGAL DISCUSSION
STANDARD OF REVIEW

The United States Constitution

Amendment 4 - Search and Seizure

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

The Fourth Amendment requires "a nexus ... between the item to be seized and criminal behavior. (see, Hayden, 387 U.S. at 307; See also Steagald, 451 U.S. 213; See, eg. U.S. v. Lalor, 996 F.2d 1578, 1582 (4th cir 1993); warrant invalid because supporting affidavit lacked basis from which the Magistrate could infer that evidence of drug activity would be found at defendant's address; U.S. v. Schultz, 14 F.3d 1093, 1097-98 (6th cir 1994) warrant invalid because supporting affidavit lacked evidence of nexus between contraband and place to be searched, see. Greenstreet v. County of San Bernardino, 41 F.3d 1306, 1309 (9th. cir 1994) warrant invalid because supporting affidavit's statement that police saw known drug offender at location of drug activity and at target of search warrant insufficient nexus between contraband and place to be searched.

Moreover, the court stated that a determination of good-faith reliance, like a -

a determination of probable cause, must be bound by the four corners of the affidavit whether an objectively reasonable officer would have recognized that an affidavit was so lacking in indicia of probable cause as to preclude good faith reliance on the warrant's issuance can be measured only by what is in that affidavit. This conclusion is dictated not only by logic, but by our own precedent. See, U.S. v. Laughton, 409 F.3d 744 (6th cir 2005).

ARGUMENT

Did the state commit perjury upon the court when it contented that this case was fast-tracked due to appellant's speedy trial motion.

On December 13, 2010 the actual trial date and minutes after the jury was selected appellant requested the full assistance of appointed counsel (Presumably Travernier) to represent him at trial, which was in effect appellant's plea to neither proceed pro se nor receive stand-by legal assistance, but rather to receive the full assistance of appointed counsel in the case. Travernier advised the trial judge that appellant was requesting "a continuance or that in same way or form that he might be able to represent him in the trial." Tr. 60 l. 7-10.

The state argued that this case was fast-tracked due to appellant's speedy trial motion and that a reversal of appellant's waiver of his right to counsel would place an undue burden on the prosecution. Tr. 61, l. 10-P. 62, l. 10.

However, on July 29, 2010 in a motion hearing held at the Oconee County Courthouse, in Walhalla, South Carolina in front of the presiding Judge J. Cordell Maddox Jr. The solicitor or state argued that she was shooting to try this case in December. Tr. 7, 1.5-8

In addition, On September 14, 2010 a hearing was held at the Anderson County Courthouse regarding the State's Schmerber motion in front of the same Judge J. Cordell Maddox Jr. The state contented that it received a fax from the Appellant (or defendant) requesting a speed trial and indicating that he was proceeding pro se. Tr. 4, 1.9-10

The record clearly shows that the state intended to take this case to trial in December 2010, prior to defendant or Appellant's filing a motion for a fast and speedy trial in the month of August, 2010.

The 4th Amendment of the U.S. Constitution clearly states, "Quote"

That right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. U.S.C.A. 4th Amend.

The South Carolina Constitution Article 1. Section 10. Search and Seizure has a higher standard for the magistrate to issue warrants. Warrants must be issued upon a sworn written statement. S.C. Code 1976, § 17-13-140. In both, United States Constitution and South Carolina Constitution mandate the oath, affirmation or sworn statement to be particularly or put another way, "state specifically the name of the place or person they are going to search and seize. See State v. McKnight, 291 S.C. 110, 352 S.E. 2d 471 (1987).

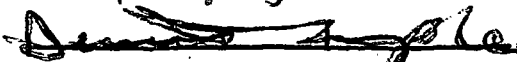
The failure to suppress the evidence from the unconstitutional arrest warrants deprived the defendant of fundamental rights to be secure in his persons has been violated and the good faith exception to the exclusionary Rule is inapplicable because the arrest warrants were issued upon a supporting affidavit that was lacking in indica of probable cause and a objectively reasonable officer would have recognized it. The good faith reliance on the warrant's issuance can be measured only by what is in that affidavit. See U.S. v. Laughton, 409 f.3d 744 (6th cir. 2005); also See. Illinois v. Gates, 462 U.S. 213, 239, 103 S.ct. 2317, 76 L.Ed. 2d 527 (1983) See. Leon, 468 U.S. at 913-14, 104 S.ct. at 3415-16;

CONCLUSION

Based on the following argument along with the ANDers brief of Appellant's, Appellant requests that his convictions and sentences be vacated and to be immediately released from Prison.

October 29, 2010

Respectfully submitted



Dennis Temple, 274822

Lieber Corr. Inst. EB-35

P.O. Box 205

Ridgelyville, SC 29472

STATE of SOUTH CAROLINA

IN the court of appeal

Appeal from Oconee County

J. Cordell Maddox Jr. circuit court Judge

THE STATE,

Respondent,

v.

DENNIS Temple

Appellant,

Affidavit of Dennis Temple

RECEIVED

NOV 1 2012

SC Court of Appeals

I, Dennis Temple being duly sworn
depose and state as follows:

1. On May 11, 2010 I was arrested
and detained at the Oconee County Detention
center for allegedly committing the crimes
of criminal sexual conduct, 1st degree,
kidnapping, and Grand Larceny. attached
here to as Exhibit B, C, and D.

2. The magistrate Judge Blake Norton issued the arrest warrants based on a sworn written statement by Catherine McGough, which never connected me — to the crime and the alleged Victim never mention in her Sworn statement that she took part in a photo-display, it is attached hereto as Exhibit A.

3. Based upon the affidavit that was used to support the arrest warrants there was no probable cause to arrest the me.

FURTHER THE DEPONENT SAYETH NOT.

Dennis Temple
Dennis Temple

Sworn to and subscribed before me
this 29th day of October, 2012

Sylvia Jones
Notary public for South Carolina

My commission Expires: 1/24/2018

STATE OF SOUTH CAROLINA

IN THE COURT OF Appeals

Appeal from Oconee County

J. Cordell Maddox Jr. Circuit Court Judge

THE STATE,

Respondent,

v.

DENNIS TEMPLE,

Appellant

RECEIVED

NOV 1 2012

CERTIFICATE OF SERVICE

SC Court of Appeals

The undersigned appellant hereby certifies that a true copy of the prose brief of appellant and Affidavit of appellant along with Exhibit A, B, C, and D in the above referenced case has been served upon Salley W. Elliott, Esquire at p.o. Box 50666, Columbia, SC; on this 29th day of October, 2012

Dennis Temple
Dennis Temple
Appellant

Subscribed and Sworn to before me
this —th day of October, 2012

(L.S.)
Notary Public for South Carolina

My commission Expires: _____

mail room lady
Refuse to sign
Notary spot
Mrs. Jones

VOLUNTARY STATEMENT

A+1

DATE 5-10-10 PLACE Demo Medical Center TIME STARTED 6:30 A.M.
 I, the undersigned, Catherine [REDACTED], am 19 years of age, my date and place of birth being [REDACTED]
 I now live at [REDACTED]
 Before answering any questions or making any statements,

a person who identified himself as a [REDACTED] duly warned and advised me, and I know and understand that I have the following rights: That I have the right to remain silent and I do not have to answer any questions or make any statements at all; that any statement I make can and will be used against me in a court or courts of law for the offense or offenses concerning which the following statement is hereinafter made; that I have the right to consult with a lawyer of my own choice before or at anytime during any questioning or statements I make; that if I cannot afford to hire a lawyer, I may request and have a lawyer appointed for me by the proper authority, before or at anytime during any questioning or statements that I make, without cost or expense to me; that I can stop answering any questions or making any statements at any time that I choose, and call for the presence of a lawyer to advise me before continuing any more questioning or making any more statements, whether or not I have already answered some questions or made some statements.

I do not want to talk to a lawyer, and I hereby knowingly and purposely waive my right to remain silent, and my right to have a lawyer present while I make the following statement to the aforesaid person, knowing that I have the right and privilege to terminate any interview at any time hereafter and have a lawyer present with me before answering any more questions or making any more statements, if I choose to do so.

I declare that the following voluntary statement is made by my own free will without promise of hope or reward, without fear or threat of physical harm, without coercion, favor or offer of favor, without leniency or offer of leniency, by any person or persons whatsoever.

On my 9th 2010 at 4:30pm I drove to All-Safe Storage Facility in Seneca SC in my 2008 Honda Accord (two-door, and gray). Upon entering the gate I saw the assailant walking out of the entrance. He was a black man somewhere between the ages 20 and 40^{cm} wearing a gray sweat-suit. I proceeded to my storage unit, unit 177, parked my car, left it unlocked, and left the windows rolled down. I unlocked my storage unit, lifted the door, left the lock on the door, and set my keys on the trunk of the car after I popped the trunk. I had unloaded about half of my load, so there was a square basket contained, a wire pineapple garden decoration (3 ft tall) and a few other ^{cm} miscellaneous objects, when the assailant walked towards me. He was wearing the same clothing and was carrying two types of tennis shoes in either hand. I noted that behind him ^{open} was a storage unit (which I later found out was in fact his). All I could see inside was a mattress propped up on ^{cm} its long skinny side, creating a horizontal barrier in the doorway. As he approach, he asked what my shoe size was (he was about 20 ft away from me at this point). I replied "7" as I stepped away from my storage unit. He asked me once he got about 15 ft away from me, if I was interested in either of these shoes. They were both Nike running shoes one

certify I have received a copy of this statement.

I have read each page of this statement consisting of 1 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before it was finished. I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 10:05 A M. on the 10th day of May, 20 10.

Debra M. Soltan
 Notary Public for S.C.
 My Commission Expires 8-7-2018

WITNESS: [REDACTED] RN

WITNESS: [REDACTED]

Signature of person giving voluntary statement

EXHIBIT A

This statement was completed at 10:05 A.M. on the 10th day of Jan, 2010

Notary Public for S.C.

My Commission Expires 8-7-2018

WITNESS: [Signature]

WITNESS:

Signature of person giving voluntary statement

storage unit attached. I also still had my ^{prescription} glasses on. After I flipped over I started screaming "get the fuck off of me" and "help" as loud as I could while deterring him by kicking. In the process I lost my shoes. I was wearing spunky boat shoes, a pair of navy shorts, black panties, a nude bra, and a white scoop-neck t-shirt. I took my car key and jabbed it into the left side of his neck. At this, he punched me square in the nose so hard that I lost my grip on the keys and it broke my glasses. I continued screaming, but he then strangled me with his hands. I could still breathe but barely. We were both on the ground at this point; he was over top of me. He let loose the strangle and I continued to scream. This time he strangled me so that I could not breathe at all and my vision was darkening. When he let loose this time I didn't scream. He had put a two inch leather belt around my neck, and had led me to the doorway of my storage unit. No one was in sight, it was still broad daylight. It was probably about 4:45pm at this point. He said that when he said so, we were going to run. I misunderstood and thought that he was letting me run away; I quickly realized my misinterpretation when he started pulling me towards the open storage unit. His storage unit was diagonally to the right from my storage unit. I never saw the number due to my lack of glasses. I started screaming again. I somehow ended up on the ground with him strangling me with the belt. This part is blurry because I passed out from him strangling me. I awoke to with him standing over me, saying things that I didn't register. He half drug me to the storage unit. We stayed close to the ^{back of the} storage units that were located in the middle of the rectangular area. The ground

I certify I have received a copy of this statement

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This statement was completed at 10:05 A.M. on the 10th day of May, 2010.

Dilvie M. Doffman
Notary Public for S.C.

My Commission Expires 8-7-2013

WITNESS: [Signature]

WITNESS: [Signature]

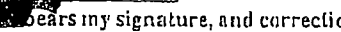
Signature of person giving voluntary statement

VOLUNTARY STATEMENT
USED FOR ADDITIONAL PAGES ONLY

PAGE # 4

dirt and gravel. This is where most of my scratches were obtained. The heaviest ^{cm} concentration of scratches was on the outside of my left leg. My back and shoulders also sustained heavy scratches. We entered the storage unit. There was only a small aisle to walk through, between the mattress earlier described and the wall, about three feet wide. His storage unit was bigger than mine. It looked to be about a 10' by 10'. There was another mattress propped up behind the first described mattress; they were set up in the same fashion. Behind those two mattresses was a mattress and a ^{cm} box spring lying down behind the standing mattresses. On the mattresses were floral print sheets with a magenta comforter of some kind of smooth, shiny fabric on top of the sheets. There were maps in the corner, front right corner. A pair of jeans were stuffed on either side of the door, filling small holes. The right side wall was lined with "junk" clothes, a box of hats and masks, a printer, and ^{boxes} of Nike running shoes. He put me on the bed. Pulled a sock out of a black stringed athletic bag, and put it in my mouth. I used my tongue to keep the gag from going too far. He used a white sheet to rip strips to tie me with. He used one of those strips to keep the sock in my mouth by tying it around my head. He tied my arms behind my back and then tied my ankles together. Using another binding, he attached the ties from the ankles and wrists together. He asked me if I had family in Clemson. I said yes, although I do not. He asked ^{cm} ~~where~~ if I had money in my car. I said yes. He told me that he was going to go get the money out of the car. He threw the magenta blanket over my head. It then sounded like he closed the gate and locked it. I heard the door to the storage unit go down and I heard the car

I certify I have received a copy of this statement 

I have read each page of this statement consisting of 1 page,  bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 10:05 A .M. on the 10th day of May, 2010.

Vivian M. Bolton

Notary Public for S.C.

My Commission Expires 8-7-2018WITNESS: Chris BrownWITNESS: 

Signature of person giving statement

VOLUNTARY STATEMENT
USED FOR ADDITIONAL PAGES ONLY

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PAGE # 5

alarm go off, although I'm not sure in which order. He came back to his storage unit and asked me questions while he fumbled around with something from the pile on the right wall. I couldn't see what it was. I was still on my stomach with my head facing the standing mattresses. He asked how much money was ~~in~~^{on} in my account. I told him three thousand. He muttered repetitively about "rich white girl". He rolled me over and I then saw that he was undressed. He said "I am going to rape you, now" he asked if I would like that. I said "no" and he asked for me to repeat it several times. Then he asked if I wanted to die. I again said "no". He told me that I had better stay quiet, then. He said that he'd slit my throat. That it would take anyone too long to get in to help me and that he didn't care about getting caught. His reason he said was, "because, you see this shithole? This is where I live, it's all I have". He had cut my bonds with something, I'm not sure what it was, but it seemed to be a small knife. He ~~cut~~^{cut} pulled off my shorts, then my underwear. He commented about me "pissing on my clothes". Apparently I had urinated when I had passed out. He pulled up my shirt and bra and inserted himself into my vagina. I stayed quiet. And he said "I'm sorry baby, baby I'm so sorry" and kissed me on my ~~left~~^{left} cheek twice. That is the only contact I ever had with him. After a minute or so, he stood up, cursing himself for what he had done. I assume that means ~~cumming~~^{cumming} cumming inside of me, because he then proceeded to wash me out. He took a blue cleaning rag and dunked it into a liquid. He rubbed the rag around my crotch and inserted it. He used his finger and then picked up the power aid bottle and filled it with the same liquid that the rag was dipped in. He put the power aid a centimeter or so into me and squeezed the liquid out into me. He dressed. I urinated.

I certify I have received a copy of this statement 

I have read each page of this statement consisting of _____ page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 10:05 A M. on the 10th day of May, 2016.

Dulcie M. Ertan

Notary Public for S.C.

My Commission Expires 8-7-2018

WITNESS: Cas Conn

WITNESS: _____


Signature of person giving voluntary statement

VOLUNTARY STATEMENT
USED FOR ADDITIONAL PAGES ONLY

PAGE # 6

on the already ~~soaked~~ bed. He tied me up, asked what my bin number was. I still was gagged, but I used my hand to tell him the four digits. He asked which card and which bank. I told him the visa and BB&T. He finished tying me. This time, instead of tying my hands and feet to each other, he tied a binding around my neck and to my legs, so that I could drop neither my head or legs. This is where I sustained most of my neck injuries I believe. I struggled quite a bit because the ~~rough~~ rope was painful. He again threw the blanket over me, but before that he had used electrical tape to tie my gag this time. He said that he was leaving to go to the store down the street. About 30 minutes he returned, with the car parked outside of the unit playing 98.1 loudly. He came back in quickly and zipped something up. I was still not able to see what was going on. I moaned and he came over and pulled the tape gag down some so that I could speak. I said that I couldn't breathe and he said that I could breathe fine ^{now}. He pushed the gag back in and piled more blankets over my head. He left the unit, closed and locked the door. I could hear the car move. I found that I could get one arm loose, but stayed in the other bindings in case he got back. After about 2 hours, I saw that it was dark outside (I had rolled the blankets off of my head earlier). I untied all of my bounds and used a head lamp flashlight to look around the unit. I tried the door, and it was indeed locked. I couldn't find anything to open it with. I looked around for any weapons. I found holes in all of the mattresses. Inside the note in the box spring. I stuffed the belt that had still been around my neck, a broken coat hanger, and the electrical tape that he had used to tie my second gag with. I saw the poweraid bottle floating in a ton bucket that was knee height and about a foot in diameter. It smelled like some kind of cleaning

I certify I have received a copy of this statement [REDACTED]
 I have read each page of this statement consisting of _____ page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 10:05 A .M. on the 10th day of May, 20 10.

Dillon M. Bortan
 Notary Public for S.C.

My Commission Expires 8-7-2018

WITNESS: [Signature]

WITNESS: _____

[REDACTED]
 Signature of person giving voluntary statement

VOLUNTARY STATEMENT
USED FOR ADDITIONAL PAGES ONLY

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PAGE # 7

agent and next to the bucket was a lysol bottle and a sprite bottle. Inside the sprite bottle was more cleaning agent. I heard him walking back so I returned to the bed. He seemed in a better mood. I asked him to please let me go, that I wouldn't cause trouble. He said okay but that he had to go get the car first. He gagged me with banding from the sheet and a sock. He said that he'd be back. ~~more banding~~ While he was speaking with me, he packed a black duffle bag with Nike shoe boxes, but didn't finish packing and left it open. When he had walked in he had some sort of canvas bag or clothing item. He kept checking the pockets of that item and on the mattresses and other boxes around the room. He never found it and left in a hurry. I got up and looked around after he was gone for an hour or so. I walked over to ~~the~~ ^{the} black duffle bag and saw a cell phone in a container that had been covered before. I turned it on and it worked. I dialed 911. A man answered. I described who I was and where I was. I spoke with him until I heard sirens and voices calling for me. I took the bands off of my feet and banged on the door. The officers busted the door down. And I left the unit with the cell phone (a red, small, flip phone), and some of the remaining bands.

I certify I have received a copy of this statement ~~_____~~
I have read each page of this statement consisting of _____ page(s); each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 10:05 A.M. on the 10th day of May, 2010.

Vilma M. Sotomayor
Notary Public for S.C.

My Commission Expires 8-7-2013

WITNESS: Cas C. [Signature]

WITNESS: _____

~~_____~~

Signature of person giving voluntary statement

N-136669

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

THE STATE

1012105

against

Dennis Maurice Temple

Address:

Seneca, SC 29678-

Phone: _____ SSN: _____
Sex: M Race: B Height: 5 11 Weight: 193
DL State: SC DL #: 004434239
DOB: _____ Agency ORI #: SC0370000
Prosecuting Agency: Oconee County Sheriff
Prosecuting Officer: Scott Arnold - 1011
Offense: Kidnapping / Kidnapping

Offense Code: 0095
Code/Ordinance Sec: 16-03-0910

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant
on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Walhalla Magistrate
208 Booker Drive
Walhalla, SC 29691

STATE OF SOUTH CAROLINA
☒ County/ ☐ Municipality of
Oconee

AFFIDAVIT

DEFENDANT
COPY

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

Personally appeared before me the affiant Scott Arnold who
being duly sworn deposes and says that defendant Dennis Maurice Temple
did within this county and state on or about 05/09/2010 violate the criminal laws of the
State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Oconee)
in the following particulars:

DESCRIPTION OF OFFENSE Kidnapping / Kidnapping

Exhibit B

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

THE DEFENDANT DID, ON 05-09-10, UNLAWFULLY AND WITHOUT AUTHORITY TO DO SO, ABDUCT, CONFINED
AND INVEIGLE THE VICTIM, CATHERINE MCGOUGH, AGAINST HER WILL WHILE ACCOMPANIED BY
AGGRAVATED CIRCUMSTANCES. THIS DEFENDANT DID FORCE THE VICTIM FROM HER STORAGE UNIT, UNIT
177, TO HIS PERSONAL STORAGE UNIT, UNIT 193, WHERE HE COMMITTED THE CRIME OF CRIMINAL SEXUAL
CONDUCT AGAINST THE VICTIM. THE VICTIM WAS TIED UP AND LEFT INSIDE THE DEFENDANT'S STORAGE
UNIT. THIS INCIDENT OCCURRED AT 600 SHILOH RD, SENECA, SC IN OCONEE COUNTY AND WAS
INVESTIGATED BY OCSO. A WRITTEN REPORT, PHOTOGRAPHS AND STATEMENTS ARE ON FILE. CASE
#1012105.

Signature of Affiant

STATE OF SOUTH CAROLINA
☒ County/ ☐ Municipality of
Oconee

Affiant's Address 300 S Church Street
Walhalla, SC 29691-
Affiant's Telephone (864)638-4111

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 5/9/2010 defendant Dennis Maurice Temple

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Oconee) as set forth below:

DESCRIPTION OF OFFENSE: Kidnapping / Kidnapping

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable

Sworn to and subscribed before me

on 05/10/2010

Blake A. Norton (L.S.)
Signature of Issuing Judge

Blake A. Norton

Judge Code: 5033

Judge's Address 208 Booker Drive
Walhalla, SC 29691-2278
Judge's Telephone (864)638-4125

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

866

DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY

699

N-136670

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

THE STATE

1012105

against

Dennis Maurice Temple

Address:

Seneca, SC 29678-

Phone: SSN: [REDACTED]

Sex: M Race: B Height: 5 11 Weight: 198

DL State: SC DL #: 004434239

DOB: [REDACTED] Agency ORI #: SC0370000

Prosecuting Agency: Oconee County Sheriff

Prosecuting Officer: Scott Arnold - 1011

Offense: Sex / Criminal sexual conduct - First degree

Offense Code: 0160

Code/Ordinance Sec: 16-03-0652

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant
on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Walhalla Magistrate
208 Booker Drive
Walhalla, SC 29691

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

Personally appeared before me the affiant Scott Arnold

being duly sworn deposes and says that defendant Dennis Maurice Temple

did within this county and state on or about 05/09/2010

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Oconee)

in the following particulars:

DESCRIPTION OF OFFENSE Sex / Criminal sexual conduct - First degree

EXhibit CI further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:THE DEFENDANT DID, ON 05-09-10, WHILE COMMITTING THE CRIME OF KIDNAPPING, ENGAGE IN SEXUAL
BATTERY UPON THE VICTIM, CATHERINE MCGOUGH, BY PERFORMING SEXUAL INTERCOURSE ON THE VICTIM
AGAINST HER WILL. THE DEFENDANT DID, WHILE AT UNIT 193, ALL SAFE STORAGE, 600 SHILOH RD., SENECA,
SC IN OCONEE COUNTY, FORCE SEXUAL INTERCOURSE WITH THE VICTIM. VICTIM WAS TRANSPORTED TO
OMC FOR EXAMINATIONS. INVESTIGATED BY OCSO. A WRITTEN REPORT, PHOTOGRAPHS AND STATEMENTS
ARE ON FILE. CASE #1012105.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

Affiant's Address 300 S Church Street

Walhalla, SC 29691-

Affiant's Telephone (864)638-4111

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 5/9/2010 defendant Dennis Maurice Temple

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Oconee) as set forth below:

DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct - First degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable
Sworn to and subscribed before me

on 05/10/2010

Signature of Issuing Judge (L.S.)

Blake A. Norton

Judge Code: 5033

Judge's Address 208 Booker Drive

Walhalla, SC 29691-2278

Judge's Telephone (864)638-4125

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY

DEFENDANT
COPYForm Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

N-136668

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

THE STATE

1012105

against

Dennis Maurice Temple

Address:

Seneca, SC 29678-

Phone: SSN: [REDACTED]

Sex: M Race: B Height: 5 11 Weight: 193

DL State: SC DL #: [REDACTED]

DOB: [REDACTED] Agency ORI #: SC0370000

Prosecuting Agency: Oconee County Sheriff

Prosecuting Officer: Scott Arnold - 1011

Offense: Larceny / Grand Larceny, value \$5,000 or more

Offense Code: 0479

Code/Ordinance Sec: 16-13-0030(B)(2)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be

dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant

on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Walhalla Magistrate

208 Booker Drive

Walhalla, SC 29691

☒ County/ ☐ Municipality of

Oconee

Personally appeared before me the affiant Scott Arnold

being duly sworn deposes and says that defendant Dennis Maurice Temple

did within this county and state on or about 05/09/2010

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Oconee)

in the following particulars:

DESCRIPTION OF OFFENSE Larceny / Grand Larceny, value \$5,000 or more

Exhibit D

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

THE DEFENDANT DID, ON 05-09-10, WITH THE INTENT TO PERMANENTLY DEPRIVE THE OWNER, TAKE AND CARRY AWAY A 2008 HONDA ACCORD, WEST VIRGINIA TAG #NL3593, VALUED AT MORE THAN \$5000.00, WHICH BELONGED TO CATHERINE MCGOUGH. THIS INCIDENT OCCURRED AT 600 SHILOH RD, SENECA, SC, IN OCONEE COUNTY AND WAS INVESTIGATED BY OCSO. A WRITTEN REPORT IS ON FILE. CASE #1012105.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

Affiant's Address 300 S Church Street

Walhalla, SC 29691-

Affiant's Telephone (864)638-4111

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 5/9/2010 defendant Dennis Maurice Temple

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Oconee) as set forth below:

DESCRIPTION OF OFFENSE: Larceny / Grand Larceny, value \$5,000 or more

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on 05/10/2010



Blake A. Norton

Judge Code: 5033

Judge's Address 208 Booker Drive

Walhalla, SC 29691-2278

Judge's Telephone (864)638-4125

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

000

DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY

ARREST WARRANT

N-136669

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

THE STATE

1012105

against

Dennis Maurice Temple

Address:

Seneca, SC 29678-

Phone: _____ SSN: _____
 Sex: M Race: B Height: 5 11 Weight: 198
 DL State: SC DL #: 004434239
 DOB: _____ Agency ORI #: SC0370000

Prosecuting Agency: Oconee County Sheriff

Prosecuting Officer: Scott Arnold - 1011

Offense: Kidnapping / Kidnapping

Offense Code: 0095

Code/Ordinance Sec: 16-03-0910

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be
 dealt with according to the law.

(L.S.)

Signature of Judge.

Date:

RETURN

A copy of this arrest warrant was delivered to
 defendant _____
 on _____

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Walhalla Magistrate
 208 Booker Drive
 Walhalla, SC 29691

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

Personally appeared before me the affiant Scott Arnold

who

being duly sworn deposes and says that defendant Dennis Maurice Temple

did within this county and state on or about 05/09/2010

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Oconee)

in the following particulars:

DESCRIPTION OF OFFENSE Kidnapping / Kidnapping

Exhibit B

I further state that there is probable cause to believe that the defendant named above did commit
 the crime set forth and that probable cause is based on the following facts:

THE DEFENDANT DID, ON 05-09-10, UNLAWFULLY AND WITHOUT AUTHORITY TO DO SO, ABDUCT, CONFINED
 AND INVEIGLE THE VICTIM, CATHERINE MCGOUGH, AGAINST HER WILL WHILE ACCOMPANIED BY
 AGGRAVATED CIRCUMSTANCES. THIS DEFENDANT DID FORCE THE VICTIM FROM HER STORAGE UNIT, UNIT
 177, TO HIS PERSONAL STORAGE UNIT, UNIT 193, WHERE HE COMMITTED THE CRIME OF CRIMINAL SEXUAL
 CONDUCT AGAINST THE VICTIM. THE VICTIM WAS TIED UP AND LEFT INSIDE THE DEFENDANT'S STORAGE
 UNIT. THIS INCIDENT OCCURRED AT 600 SHILOH RD, SENEGA, SC IN OCONEE COUNTY AND WAS
 INVESTIGATED BY OCSO. A WRITTEN REPORT, PHOTOGRAPHS AND STATEMENTS ARE ON FILE. CASE
 #1012105.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

Affiant's Address 300 S Church Street

Walhalla, SC 29691-

Affiant's Telephone (864)638-4111

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 5/9/2010 defendant Dennis Maurice Temple

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Oconee as set forth below:

DESCRIPTION OF OFFENSE: Kidnapping / Kidnapping

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
 her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
 soon thereafter as is practicable
 Sworn to and subscribed before me

on 05/10/2010

(L.S.)
 Signature of Issuing Judge
 Blake A. Norton

Judge Code: 5033

Judge's Address 208 Booker Drive

Walhalla, SC 29691-2278

Judge's Telephone (864)638-4125

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY

STATE OF SOUTH CAROLINA
N-136670
STATE OF SOUTH CAROLINA
☒ County/ ☐ Municipality of
Oconee

THE STATE 1012105
against
Dennis Maurice Temple

Address:
Seneca, SC 29678-

Phone: SSN:
Sex: M Race: B Height: 5 11 Weight: 198
DL State: SC DL #: 004434239
DOB: Agency ORI #: SC0370000
Prosecuting Agency: Oconee County Sheriff
Prosecuting Officer: Scott Arnold - 1011
Offense: Sex / Criminal sexual conduct - First degree

Offense Code: 0160
Code/Ordinance Sec: 16-03-0652

This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality of
The accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)
Signature of Judge

Date:

RETURN
A copy of this arrest warrant was delivered to
defendant
on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:
Walhalla Magistrate
208 Booker Drive
Walhalla, SC 29691

202

DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY

STATE OF SOUTH CAROLINA
☒ County/ ☐ Municipality of
Oconee
AFFIDAVIT
DEFENDANT COPY
Fonn Approved by
S.C. Attorney General
April 21, 2003
SCCA 51a
Personally appeared before me the affiant Scott Arnold who
being duly sworn deposes and says that defendant Dennis Maurice Temple
did within this county and state on or about 05/09/2010 violate the criminal laws of the
State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Oconee)
in the following particulars:

DESCRIPTION OF OFFENSE Sex / Criminal sexual conduct - First degree

Exhibit C

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

THE DEFENDANT DID, ON 05-09-10, WHILE COMMITTING THE CRIME OF KIDNAPPING, ENGAGE IN SEXUAL
BATTERY UPON THE VICTIM, CATHERINE MCGOUGH, BY PERFORMING SEXUAL INTERCOURSE ON THE VICTIM
AGAINST HER WILL. THE DEFENDANT DID, WHILE AT UNIT 193, ALL SAFE STORAGE, 600 SHILOH RD., SENECA,
SC IN OCONEE COUNTY, FORCE SEXUAL INTERCOURSE WITH THE VICTIM. VICTIM WAS TRANSPORTED TO
OMC FOR EXAMINATIONS. INVESTIGATED BY OCSO. A WRITTEN REPORT, PHOTOGRAPHS AND STATEMENTS
ARE ON FILE. CASE #1012105.

Signature of Affiant
STATE OF SOUTH CAROLINA
☒ County/ ☐ Municipality of
Oconee
Affiant's Address 300 S Church Street
Walhalla, SC 29691-
Affiant's Telephone (864)638-4111

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 5/9/2010 defendant, Dennis Maurice Temple
did violate the criminal laws of the State of South Carolina (or ordinance of
☒ County/ ☐ Municipality of Oconee) as set forth below:

DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct - First degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable
Sworn to and subscribed before me

on 05/10/2010
Signature of Issuing Judge (L.S.)
Blake A. Norton
Judge Code: 5033
Judge's Address 208 Booker Drive
Walhalla, SC 29691-2278
Judge's Telephone (864)638-4125

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

N-136668
703
STATE OF SOUTH CAROLINA
County/ Municipality of
Oconee
THE STATE 1012105
against
Dennis Maurice Temple
Address:
Seneca, SC 29678-
Phone: SSN:
Sex: M Race: B Height: 5 11 Weight: 198
DL State: SC DL #: 004434239
DOB: 11/12/1972 Agency ORI #: SC0370000
Prosecuting Agency: Oconee County Sheriff
Prosecuting Officer: Scott Arnold - 1011
Offense: Larceny / Grand Larceny, value \$5,000 or more

Offense Code: 0479
Code/Ordinance Sec: 16-13-0030(B)(2)

This warrant is CERTIFIED FOR SERVICE in the
County/ Municipality of
The accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)
Signature of Judge

Date:

RETURN
A copy of this arrest warrant was delivered to
defendant
on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:
Walhalla Magistrate
208 Booker Drive
Walhalla, SC 29691

DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY

STATE OF SOUTH CAROLINA)
County/ Municipality of)
Oconee)
AFFIDAVIT
DEFENDANT COPY
Form Approved by S.C. Attorney General April 21, 2003 SCCA 518
Personally appeared before me the affiant Scott Arnold who
being duly sworn deposes and says that defendant Dennis Maurice Temple
did within this county and state on or about 05/09/2010 violate the criminal laws of the
State of South Carolina (or ordinance of County/ Municipality of Oconee)
in the following particulars:
DESCRIPTION OF OFFENSE Larceny / Grand Larceny, value \$5,000 or more

Exhibit D

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

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Signature of Affiant
STATE OF SOUTH CAROLINA)
County/ Municipality of)
Oconee)
Affiant's Address 300 S Church Street
Walhalla, SC 29691-
Affiant's Telephone (864)638-4111

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:
It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 5/9/2010 defendant Dennis Maurice Temple
did violate the criminal laws of the State of South Carolina (or ordinance of
County/ Municipality of Oconee) as set forth below:

DESCRIPTION OF OFFENSE: Larceny / Grand Larceny, value \$5,000 or more

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable
Sworn and subscribed before me

on 05/10/2010)
Judge's Address 208 Booker Drive
Walhalla, SC 29691-2278)
Judge's Telephone (864)638-4125)
Issuing Court: X Magistrate Municipality Circuit)
Signature of issuing Judge (L.S.)
Blake A. Norton
Judge Code 5033

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Dennis Temple, Appellant.

Appellate Case No. 2011-182806

Appeal From Oconee County
J. Cordell Maddox, Jr., Circuit Court Judge

Unpublished Opinion No. 2013-UP-350
Submitted August 1, 2013 – Filed September 11, 2013

APPEAL DISMISSED

Appellate Defender Wanda H. Carter, of Columbia; and
Dennis Temple, pro se, for Appellant.

Attorney General Alan McCrory Wilson and Senior
Assistant Deputy Attorney General Salley W. Elliott,
both of Columbia, for Respondent.

PER CURIAM: Dismissed after consideration of Appellant's pro se brief and review pursuant to *Anders v. California*, 386 U.S. 738 (1967). Counsel's motion to be relieved is granted.¹

APPEAL DISMISSED.

SHORT, WILLIAMS, and THOMAS, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

September 27, 2013

The Honorable Beverly H. Whitfield
PO Box 678
Walhalla SC 29691-0678

REMITTITUR

Re: The State v. Temple, Dennis
Lower Court Case No. 2010GS3700887, 2010GS3700889,
2010GS3700888, 2010GS3700886
Appellate Case No. 2011-182806

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

The exhibit being returned is: State's Exhibit #54 - 911 conversation (Disc). Please sign attached copy of this letter and return to acknowledgement receipt of this item.

Very truly yours,

Handwritten signature of Jenny A. Kitchings in cursive script.
CLERK

cc: Salley W. Elliott
Wanda H. Carter

RECEIVED

SEP 27 2013

SC OFFICE OF
APPELLATE DEFENSE

STATE OF SOUTH CAROLINA

FORM 5
FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT

IN THE COURT OF COMMON PLEAS

County of Oconee

7/13/13 OCT 15 P 2:37

DENNIS Maurice Temple

Full name and prison number (if any) of Applicant

274802

v.

2013 - CP - 37 - 00729

APPLICATION FOR

State of South Carolina

POST-CONVICTION RELIEF

COPY

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention SOUTH CAROLINA Department of Corrections
2. Name and location of Court which imposed sentence General Session Court
located in Oconee County, SOUTH CAROLINA
3. Name(s) of co-defendant(s) (if any) NONE
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2010 - GS - 37 - 00886 (d). 2010 - GS - 37 - 00889
 - (b) 2010 - GS - 37 - 00887

- (c) 2010 - GS-37-00888
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) 12-15-10 / 10 years (d). 12-15-10 / 30 years
- (b) 12-15-10 / 30 years
- (c) 12-15-10 / 30 years
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty ✓
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. S.C. Court of Appeals
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Appeal Dismissed
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. September 11, 2013 - Received on 9-24-13
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. UNPUBLISHED OPINION NO. 2013-UP-350. THIS
- ii. OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
- iii. CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) N/A
- (b) N/A

(c) N/A

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) See attachments Pages 8-11. a-m(b) See attachments pages 8-11. a-m(c) See attachments pages 8-11. a-m

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

(a) See attachments Pages 12-17. a-m.(b) See attachments Pages 12-17. a-m.(c) See attachments Pages 12-17.

12. Prior to this application have you filed with respect to this conviction:

(a) any petition in a State Court under South Carolina Law? NO(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO(d) any other petitions, motions or applications in this or any other Court? yes

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. Pro se Brief

ii. _____

iii. _____

iv. _____

(b) the name and location of the Court in which each was filed:

i. S.C. Court of Appeals

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

- i. Appeal dismissed
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. September 11, 2013
- ii. _____
- iii. _____
- iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. unpublished Opinion NO. 2013-UP-350. This opinion
- ii. has no precedential value. It should not be cited
- iii. or relied on as precedent in any proceeding
- iv. except as provided by Rule 268(d)(2), SCACR.

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. NO
- ii. _____
- iii. _____

(b) the proceedings in which each ground was raised:

- i. NO
- ii. _____
- iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) See. attachments pages 18-26. A-N
 (b) See. attachments pages 18-26. A-N
 (c) See. attachments pages 18-26. A-N

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? yes arraignment
 (b) your trial, if any? NO
 (c) your sentencing? NO
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
NO

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:
 i. Sarah Ganss Drawdy, Esq.; The Regency Building; 2315
N. Main St. Ste 117; Anderson, SC 29621
 ii. Keith G. Denny, Esq.; 30 Short Street; Walhalla
SC, 29691
 iii. Wanda M. Carter, S.C. Commission on Indigent
Defense; P.O. Box 11589
 (b) the proceedings at which each such attorney represented you:
 i. arraignment
 ii. arraignment
 iii. S.C. Court of Appeals

19. State clearly the relief you seek in filing this application:

conviction and sentence to be vacate and
released from prison at once.

20. Are you now under sentence from any other court that you have not challenged?

NO

STATE OF SOUTH CAROLINA

) 2013 CP 37-00729
) VERIFICATION
)

County of Oconee

I, Dennis Maurice Temple, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Dennis Maurice Temple

SWORN to and subscribed before me this 11th
 day of October, 2013.

Ludhean Bryant (L.S.)
 Notary Public

My Commission Expires: May 26, 2020

FILED OCONEE, SC
 BEVERLY H. WHITFIELD
 CLERK OF COURT
 2013 OCT 15 P 2:37

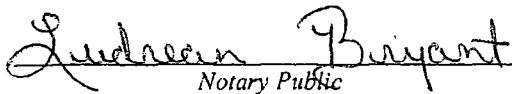
2013. CP. 37. 00729
**APPLICATION TO PROCEED WITHOUT PAYMENT
 OF COSTS AND AFFIDAVIT
 IN SUPPORT THEREOF**

I, DENNIS MAURICE TEMPLE, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.


 Applicant

SWORN or affirmed to and subscribed before me this
11th day of October, 2013.


 Notary Public

My Commission Expires: May 26, 2020

FILED OCOFEE, SC
 BEVERLY H. WHITEFIELD
 CLERK OF COURT
 2013 OCT 15 P 2:37

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

a. IN violation of S.C. code ANN. section 22-7-710, and 4th, 14th Amendments of the U.S. Constitution and S.C. Constitution, Article 1, section 10 & 3; abuse of discretion, or error of law and breach of duty.

b. IN violation of 14th Amendment of the U.S. Constitution, and S.C. Constitution, Article 1, section 3; abuse of discretion, or error of law and breach of duty.

c. IN violation of 6th and 14th Amendments of the U.S. Constitution; S.C. Constitution, Article 1, section 14 & 3; abuse of discretion, or error of law and breach of duty.

d. IN violation of 5th, 14th Amendments of the U.S. Constitution; and S.C. Constitution, Article 1, section 11 & 3; abuse of discretion, or error of law; and breach of duty.

E. IN violation of 14th Amendment of the U.S. Constitution, and S.C. Constitution, Article 1, Section 3.

F. IN violation of S.C. Code Ann. Section 16-3-740, and 14th, 5th, 6th, 4th Amendments of the U.S. Constitution, and S.C. Constitution, Article 1, section 3, 12, 14, & 10.

G. IN violation of S.C. Code ANN. section 17-13-140, and 14th, 5th, 6th, 4th amendments of the U.S. Constitution, and S.C. Constitution, Article 1, section 3, 12, 14 & 10.

H. IN violation of Schmerber v. Cali-
 fornia, 384 U.S. 757 (1966) and 14th, 5th, 6th,
 4th Amendments of the U.S. Constitution
 and S.C. Constitution, Article 1, section
 3, 12, 14. & 10.

I. IN violation of 14th Amendment
 of the U.S. Constitution; and S.C. Constitu-
 tion, Article 1, section 3.

J. IN violation of 5th, 6th, 14th Amend-
 ments of the U.S. Constitution, and S.C.
 Constitution, Article 1, Section 3, & 14;
 abuse of discretion, or error of law.

K. IN violation of 5th, 14th Amend-
 ments of the U.S. Constitution, and S.C.
 Constitution, Article 1, section 3 & 14.

L. IN violation of 5th, 6th Amend-
 ments of the U.S. Constitution, and S.C.
 Constitution, Article 1, section 3 & 14;
 abuse of discretion, or error of law.

M. IN violation of 4th, 5th, 6th and 14th amendments of the U.S. Constitutions and S.C. Code Ann. § 22-3-710 (1976) and S.C. Constitutions, Article 1, section 3, 10 & 14; abuse of discretion, or error of law, and Breach of duty.

N. IN violation of 5th, 6th and 14th amendments of the U.S. Constitutions, and S.C. Constitution, Article 1, section 3 & 14; abuse of discretion, or error of law and breach of duty.

11. state concisely and in the same order the facts which support each of the grounds set out in (10):

a. Applicant, DENNIS MAURICE TEMPLE was arrested and detained at the Oconee County Detention Center on arrest warrants (see. Exhibits 2, 3 & 4), that was issued upon a supporting affidavit or sworn written statement of the alleged victim, (see. Exhibit 1) that, (1). was completely void of facts connecting applicant to criminal activity, (2). there was no facts connecting applicant to the storage unit # 193, (3). there was no facts connecting storage unit # 193 to any criminal activity, (4). there was no facts under by the alleged victim stating the applicant was identified as the accused, (5). there was no mentioning of the applicant in the affidavit or sworn written statement of the alleged victim, (6). arrest warrants were issued upon facts never sworn too, (7). There was no probable cause to arrest.

b. Judge in suppression hearing on arrest warrants failed to correct the Record and failed to make specific findings of facts to mixed questions of law before its ruling in the suppression hearing on the arrest warrants. (see. Exhibit 18 or Record on Appeal).

c. (1). Applicant was coerced to represent himself during trial, and (2) ineffective assistance of appellate counsel. see. (Exhibit 18 & 19).

d. indictments were not issued within 90 days. see. (Exhibits 5, 6, 7 & 8). and Exhibit 18).

e. (1). The six man photo lineup of the applicant and five other black was assemble and shaded in a unduly and suggestive way, that gave way to irreparable misidentification and (2). trial Court Judge failed to make specific findings of facts to mixed questions of law before its -

ruling in suppression hearing on the photo lineup. see. (Exhibit 9).

F. Applicant was never accused in the affidavit or sworn statement of the alleged victim of committing a crime and was never identified as the accused, there was no facts in the search warrants affidavit to support the search and seizure applicant. As a result, the state did not have all of the elements required in the statute to get authorization of the Court order to get the search warrant that obtained the evidence that was used against the applicant during trial. see. (Exhibit 10 or Court Order).

G. Applicant was never accused in the affidavit or sworn statement of the alleged victim of committing a crime and was never identified as the accused, there was no facts in the search warrants affidavit to support the search

and seizure of applicant. As a result, the state did not have all of the elements required in the statute to get authorization of the court order to get the search warrant that obtained the evidence that was used against the applicant during trial. See. (Search Warrant or Exhibit 11).

H. Applicant was never accused in the affidavit or sworn statement of the alleged victim of committing a crime and was never identified as the accused, As a result, the state did not have all of the elements required in the statute or case law to get authorization of the court order to get the search warrant that obtained the evidence that was used against the applicant during trial. See. (Exhibit 12).

I. The state failed to disclose photos of the alleged victim, her car, state witnesses names who testified

during trial and a photo of the applicant which was used during trial to convict the applicant. In addition, the state further failed to disclose other material in its possession or control to the applicant which would have contradicted the state's claims or cleared defendant of blame. see. (Exhibits 13, 14, 15, 16 & 17).

J. Once the state presented its case against the applicant during trial, the applicant was denied by Judge to present witnesses for his defense. see. (Exhibit 18).

K. one of the initial Juror started making comments about the case before the case was submitted to the Jury for deliberation and was replaced by one of the two alternates, The record is void of these trans actions and occurrences. see. (Juror's testimony).

L. Threw out the trial the solicitors consistly claimed that the applicant used cleaning solution to clean out the alleged victim after he raped her. These allegation was unfounded by the evidence and cause inflammation, confusion and prejudice among the Juror's. see. (Exhibit 18).

M. arrest warrants affidavit briefly stated facts unfounded and not true at the time of the arrest. of applicant and not sworn too.

N. Trial Judge and solicitor leading the state witness on what to testify to or say on cross examination.

16. If any grounds set forth in (10) has not previously been presented to any court, state or federal, set forth the ground and state concisely the reasons why such grounds has not previously been presented:

a. IN violation of S.C. Code Ann. section 22-3-710, and 4th, 14th, Amendments of the U.S. Constitution and S.C. Constitution, Article 1, section 10 & 3; abuse of discretion, or error of law and breach of duty.

REASON: Applicant, appellate defense counsel Wanda H. Carter filed a Anders brief on his behalf. Applicant was allowed to file a Pro. se brief. Applicant did not previously raised these grounds because he is not skilled, trained or educated in the field of law and is not a lawyer.

b. IN violation of 14th Amendment of the U.S. Constitution, and S.C. Constitution, Article 1, section 3; abuse of discretion, or error of law and breach of duty.

REASON: Applicant, appellate defense counsel Wanda H. Carter filed a Anders brief on his behalf. Applicant was allowed to file a Pro se brief. Applicant did not raise these grounds previously because he is not skilled, trained or educated in the field of law and is not a lawyer.

d. IN violation of 5th, 14th Amendments of the U.S. Constitution, and S.C. Constitution, Article 1, section 11 & 3; abuse of discretion and breach of duty and Rule 3, SCRCP.

REASON: Applicant, appellate defense -

counsel Wanda H. Carter filed a Anders brief on his behalf. Applicant was allowed to file a Pro se brief. Applicant did not previously raise these grounds because he is not skilled, trained or educated in the field of law and is not a lawyer.

E. In violation of 14th amendment of the U.S. Constitution, and S.C. Constitution, Article 1, Section 3.

REASON: Applicant, appellate defense counsel Wanda H. Carter filed a Anders brief on his behalf. Applicant was allowed to file a Pro se brief. Applicant did not raise these grounds previously because he is not skilled, trained or educated in the field of law and is not a lawyer.

F. In violation of S.C. Code Ann. Section 16-3-740, and 14th, 5th, 6th, 4th amendments of the U.S. Constitution,

and S.C. Constitution, Article 1, Section 3, 12, 14 & 10.

REASON : Applicant, appellate defense counsel Wanda M. Carter filed a Anders brief on his behalf. Applicant was allowed to file a Pro Se brief. Applicant did not raise these grounds previously because he is not skilled, trained or educated in the field of law and is not a lawyer.

G. In violation of S.C. Code Ann. Section 17-13-140, and 14th, 5th, 6th, 4th, amendments of the U.S. Constitution, and S.C. Constitution, Article 1, Section 3, 12, 14 & 10.

REASON : Applicant, appellate defense counsel Wanda M. Carter filed a Anders Brief on his behalf. Applicant was allowed to file a Pro Se brief. -

Applicant did not raise these grounds previously because he is not skilled, trained or educated in the field of law and is not a lawyer.

H. In violation of Schmerber v. California, 384 U.S. 757 (1966), and 14th, 5th, 6th, 4th Amendments of the U.S. Constitution, and S.C. Constitution, Article 1, section 3, 12, 14, & 10.

REASON: Applicant, Appellate defense counsel Wanda H. Carter filed a Anders Brief on his behalf, Applicant was allowed to file a Pro se brief. Applicant did not raise these grounds previously because he is not skilled, trained or educated in the field of law and is not a lawyer.

I. In violation of 14th Amendment of the U.S. Constitution, and S.C. Constitution, Article 1, Section 3.

REASON: Applicant, appellate defense counsel Wanda H. Carter filed a Anders Brief on his behalf. Applicant was allowed to file a Pro Se brief. Applicant did not previously raise these grounds he is not skilled, trained or educated in the field of law and is not a lawyer.

J. In violation of 5th, 6th, 14th Amendments of the U.S. Constitution, and S.C. Constitution, Article 1, Section 3 & 14; abuse of discretion, or error of law.

REASON: Applicant, appellate defense counsel Wanda H. Carter filed a Anders Brief on his behalf. Applicant was allowed to file a pro se brief. Applicant did not previously raise these grounds because he is not skilled, trained or

educated in the field of law and is not a lawyer.

K. IN violation of 5th, 14th Amendments of the U.S. Constitution, and S.C. Constitution, Article 1, section 3 & 14;

REASON: Applicant, appellate defense counsel Wanda H. Carter filed a Anders Brief on his behalf. Applicant was allowed to file a pro se brief. Applicant did not previously raise these grounds because he is not skilled, trained or educated in the field of law and is not a lawyer.

L. IN violation of 5th, 6th, Amendments of the U.S. Constitution, and S.C. Constitution, Article 1, Section 3 & 14; abuse of discretion, or error of law.

REASON: Applicant, appellate defense -

counsel Wanda H. Carter filed a Anders Brief on his behalf. Applicant was allowed to file a pro se brief. Applicant did not previously raise these grounds because he is not skilled, trained or educated in the field of law and is not a lawyer.

M. IN violation of 4th, 5th, 6th, and 14th amendments of the U.S. Constitution and S.C. Code Ann. § 22-3-710 (1976) and S.C. Constitution, Article I, section 3, 10, & 14; abuse of discretion, or error of law, and Breach of duty.

REASON: Applicant, appellate defense counsel Wanda H. Carter filed a Anders Brief on his behalf. Applicant was allowed to file a pro se brief. Applicant did not previously raise these grounds because he is not skilled, trained or educated in the field of law and is not a lawyer.

N. IN violation of 5th, 6th and 14th amendments of the U.S. Constitutions, and and S.C. constitution, Article 1, section 3 & 14; abuse of discretion, or error of law and Breach of duty.

REASON: Applicant, appellate defense counsel Wanda M. Carter filed a Anders Brief on his behalf. Applicant was allowed to file a Pro se brief. Applicant did NOT previously raised these grounds because he is not skilled, trained or educated in the field of law and is not a lawyer.

SWORN TO AND SUBSCRIBED BEFORE ME
THIS 11 DAY OF October,

Ludrean Bryant
NOTARY PUBLIC
STATE OF SOUTH CAROLINA
MY COMMISSION EXPIRES May 26, 2020
26.

FILED OCONEE, SC
BEVERLY H. WHITEFIELD

STATE OF SOUTH CAROLINA IN THE COURT OF COMMON PLEAS
COUNTY OF OCONEE 2013 OCT 15 P 2:31 TENTH JUDICIAL CIRCUIT

DENNIS MAURICE TEMPLE

274802

Applicant,

v.

STATE OF SOUTH CAROLINA

RESPONDENT,

COPY

AFFIDAVIT

OF

DENNIS TEMPLE

2013 CP 31-00729

I, DENNIS TEMPLE M., being duly sworn
depose and state as follows:

1. On May 11, 2010 I was arrested by several Oconee County Sheriff's Department officers for allegedly committing the crimes of kidnapping, criminal sexual conduct, 1st degree and Grand Larceny. see. (arrest warrants or Exhibits 2, 3, & 4).

2. On May 12, 2010 I was taken before a Magistrate Judge and received a \$200,000. dollar bond for charges. see. (Bond Papers or Exhibit 21).

3. I was unable to bail out of jail on the \$200,000 dollar bond, and remained detained at the Oconee County Detention Center.

4. I decided to proceed pro se, in June 2010, I filed a motion for Discovery with the Oconee County clerk's office under Rule 5 and 6 including Brady material on the state in there case against me.

5. The following documents or exhibits 1 - 23, I personally received from the Oconee County Sheriff's Department, clerk office and the state via informal and formal discovery.

6. I present these documents or exhibits 1 - 23 to support my claims in my Application for Post-Conviction relief. I believe these documents to be true and accurate copies of the originals.

FURTHER THE DEPONENT SAYETH NOT.

October 11, 2013
Dated:

Dennis Temple
DENNIS TEMPLE, # 274802
Lieber Corr. Inst EB-35
P.O. Box 205
Ridgeville, SC 29472

sworn to and subscribed before me
this 11 day of October 2013.
Ludleen Bryant
Notary Public for South Carolina
my commission Expires: May 26, 2020

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

FILED OCONEE
BEVERLY H. WHITFIELD
CLERK OF COURT

THE COURT OF COMMON PLEAS
SOUTH JUDICIAL CIRCUIT

2013 OCT 15 P 2:37

DENNIS MAURICE TEMPLE
274802

APPLICANT,

V.

STATE OF SOUTH CAROLINA
RESPONDENT,

COPY

CERTIFICATE

OF

SERVICE

2013. CP. 37. 00729

I, DENNIS M. TEMPLE, applicant hereby certify that I served a copy of the Application for Post Conviction Relief along with attachments pages B-26 and Exhibits 1-12 and Exhibits 17-23 including Record on appeal Vol. I and Vol. II or Exhibit 18 and affidavit of Dennis Temple on the Attorney General, Alan Wilson at P.O. Box 11549, Columbia, SC 29211 by placing all the above in the U.S. mail at Lieber Correctional Institution on this 11th day of October 2013.

Subscribed and sworn to before me
this 11th day of October 2013.
Lurdlean Bryant
Notary Public for South Carolina
my commission Expires: May 26, 2020


DENNIS M. TEMPLE # 274802
Lieber Corr. Inst EB-35
P.O. Box 205
Ridgeville, SC 29472

FILED O'CONNOR, SC
BEVERLY H. WHITFIELD
CLERK OF COURT

Beverly H. Whitfield
Clerk of Court
Post office Box 678
Walhalla, SC 29691

2013 OCT 15 P 2:37

COPY

RE: Application for Post-Conviction Relief,
DENNIS M. TEMPLE V. STATE OF South Carolina

DEAR Beverly H. Whitfield:

2013 CP 37-00729

Enclosed please find Dennis M. Temple's
Application for Post Conviction Relief along
with attachments 8-26; Exhibits 1-12
and Exhibits 17-23 including Record on
appeal Vol. I and Vol. II or Exhibit 18
and affidavit of Dennis Temple. Please
file these documents with the Court.

Yours Truly,

Dennis Temple
DENNIS M. TEMPLE # 274802
Lieber Corr. Inst EB-35
P.O. Box 245
Ridgeville, SC 29472

October 11, 2013

STATE OF SOUTH CAROLINA
 FILED COONEE, SC
 COUNTY OF DEWEEH. WHITFIELD
 CLERK OF COURT

2013 OCT 31 PM 3 43

DENNIS TEMPLE. # 274802

Plaintiff,

V.

STATE OF SOUTH CAROLINA

Defendant.

IN THE COURT OF COMMON PLEAS
 10th Judicial Circuit
 2013-CP-37-00729

MOTION

TO

AMEND

APPLICATION

FOR

POST

CONVICTION

RELIEF

Comes now, applicant, Dennis Temple
 Pursuant to Rule 15(a) SCRPC for a motion
 to Amend Application for Post Conviction
 Relief as follows:

STATEMENT OF THE CASE

UPON the filing of my application for
 post-conviction Relief against the State
 of South Carolina at which time I was
 ignorant of the true facts as correctly

stated below, I now do state for the purpose of amending my application that :

C. (1). Applicant was coerced to represent himself during trial, and (2) ineffective assistance of appellate counsel. See. (Exhibit 18 & 19).

was incorrect, and should be stated as below :

C. (1). ineffective assistance of counsels and (2) coerced to represent himself during trial and (3) ineffective assistance of appellate counsel. See. (Exhibit 18 & 19).

Dennis Temple
DENNIS TEMPLE, # 274802
Lieber Corr. Inst EB-35
P.O. Box 205
Ridgeville, SC 29472

October 25, 2003

STATE OF SOUTH CAROLINA, SC IN THE COURT OF COMMON PLEAS
 BEVERLY H. WHITFIELD 10th Judicial Circuit
 COUNTY OF OCONEE, SC CLERK OF COURT 2013-CP-37-00729

2013 OCT 31 PM 3:44

DENNIS TEMPLE, # 274802

Plaintiff,

v.

STATE OF SOUTH CAROLINA

Defendant,

CERTIFICATE
 OF
 SERVICE

I, DENNIS TEMPLE, Plaintiff do certify
 that I have served the Applicant's motion
 to AMEND Application for Post-Conviction
 Relief on the Attorney General, Alan Wilson
 by mailing a copy of the same by United
 States Mail at Lieber Corr. Inst postage
 prepaid, to the following address:

Attorney General
 Alan Wilson
 P.O. Box 11549
 Columbia, SC 29211

October 25, 2013

Dennis Temple
 DENNIS TEMPLE, # 274802
 Lieber Corr. Inst EB-35
 P.O. Box 205
 Ridgerville, SC 29472



Beverly H. Whitfield
Clerk of Court
Post office Box 678
Walthalla, SC 29691

FILED O'CONNOR, SC
BEVERLY H. WHITFIELD
CLERK OF COURT

2013 OCT 31 PM 3 44

RE : DENNIS TEMPLE V. STATE OF South Carolina
2013-CP-37-00729 PCR.

DEAR Mrs Whitfield :

Enclosed please find applicant's
motion to amend Application for Post-
conviction Relief. Please file it with
the court and return me a copy.

Sincerely

Yours

October 25, 2013

Dennis Temple
DENNIS TEMPLE, # 274802
Lieber Corr. Inst. EB-35
P.O. Box 205
Ridgeville, SC 29472

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

IN THE COURT OF (Select one.)

☒ COMMON PLEAS ☐ FAMILY COURT

TENTH JUDICIAL CIRCUIT

DENNIS TEMPLE,

CASE NO.: 2013-CP-37-729

Plaintiff(s),

APPOINTMENT OF COUNSEL OR GAL

-vs-

(Select one.)

State of South Carolina,

☒ ORDER

Defendant(s).

☐ AMENDED ORDER

TYPE OF CASE/PROCEEDING: (Check one.)

☒ Post-Conviction Relief (PCR) habeas case	☐ Adoption	☐ Juvenile
☐ SVP case	☐ Custody and/or Visitation	☐ Abuse and Neglect
☐ Minor Name Change	☐ Other:	

It appears that DENNIS TEMPLE, who is a litigant in this case, is entitled to court-appointed counsel or a guardian ad litem.

It further appears that: (Select only one.)

- ☒ counsel/guardian ad litem has not yet been appointed by the court; therefore, an appointment for counsel/guardian ad litem is necessary.
- ☐ counsel or a guardian ad litem was previously appointed by the court but has indicated either a possible conflict of interest, an entitlement to exemption, or other good cause warranting the appointment of new counsel or guardian ad litem based on: _____
- ☐ counsel was previously appointed by the court but has not indicated that the litigant has retained private counsel and is no longer entitled to appointed counsel.
- ☐ court appointed counsel has obtained _____ Esquire as substitute counsel pursuant to Rule 608(h)(2); provided, however, only the member who originally received the appointment and who sought substitute counsel shall receive credit.
- ☐ Other:

☐ counsel ☐ lead counsel (if capital PCR case) ☐ guardian ad litem

Therefore, it is ordered that _____ hereby is appointed as (Select one.)

for the above-named person. Any counsel or GAL previously appointed is/are hereby relieved.

☐ (If Death Penalty PCR Case) It is further ordered that HUGH WELBORN, P.O. BOX 173, ANDERSON, S. C. 29622, Esquire, is hereby appointed as second counsel in this capital PCR case.

The clerk of court is directed to forward a copy of this order to all persons entitled to notice.

IT IS SO ORDERED THIS 31 DAY OF OCTOBER, 2013.

☐ Circuit Judge

☒ Clerk of Court

Shirley W. Wilkins

NOTICE: SC Supreme Court Order of September 29, 2006, requires appointed counsel entitled to payment from the Office of Indigent Defense (OID) to register the case online with OID within fifteen (15) days of this appointment at www.sccid.sc.gov and further directs that reimbursement vouchers be submitted directly to SCCID and not to the trial judge or clerk of court. See SCCID website for further details.

FILED 00000000, 0000 THE COURT OF COMMON PLEAS
 BEVERLY H. WHITEFIELD
 COUNTY OF DODGE CLERK OF COURT TENTH Judicial Circuit

2014 JAN 14 AM 10 51

2013 - CP - 37 - 729

DENNIS M. TEMPLE, # 274802

Plaintiff,

v.

STATE OF SOUTH CAROLINA
 Defendant,

MOTION

TO

AMEND

AND

SUPPLEMENT

comes now, Applicant, Dennis Temple for a motion to amend and supplement his Post-conviction Relief application pursuant to Rule 15, of the S.C.R.C.P. as follows:

applicant's amended grounds for relief:

1. That the conviction and sentence was in violation of the Constitution of the United States and the Constitution or laws of this state; or statutory or common laws:

2. That the court was without jurisdiction to impose sentence;
3. by the preponderance of the evidence pursuant to S.C.R.C.P. Rule 71.1;
4. Ineffective assistance of preliminary hearing counsels;
5. Ineffective assistance of appellate counsel;
6. Coerced to represent himself during trial;
7. abuse of discretion, or error of law, or Breach of duty.

Dennis M. Temple
DENNIS M. TEMPLE, # 274802
LIEBER CORR. INST EB-35
P.O. Box 205
Ridgeville, SC 29472

January 6, 2014

Beverly H. Whitfield
 clerk of court
 Post office Box 678
 Walhalla, SC 29691

FILED OCONEE, SC
 BEVERLY H. WHITFIELD
 CLERK OF COURT

2014 JAN 14 AM 10 52

IN RE: motion to Amend and Supplement
CASE NO: 2013 - CP - 37 - 729

Dear Clerk of Court:

I previously filed a PCR application in your court and was appointed counsel. I am filing this motion on behalf of my counsel and I. If you are not able to file my motion please explain to me why, and return my documents stamped showing that you did receive my attempt on such date. So that I may show the court that I did attempt to file the motion.

Thank you!

Dennis M. Temple
 Dennis M. Temple, #274802
 Lieber Corr. Inst EB-35
 P.O. Box 205
 Ridgeville, SC 29472

January 6, 2014

FILED COONEE, SC
 STATE OF SOUTH CAROLINA IN THE COURT OF Common Pleas
 COUNTY OF Oconee CLERK OF COURT
 Tenth Judicial Circuit
 2014 JAN 14 AM 10 51
 2013 - CP - 37 - 729

DENNIS M. TEMPLE, # 274802

Plaintiff,

v.

STATE OF SOUTH CAROLINA

Defendant.

CERTIFICATE

OF

SERVICE

I, DENNIS M. TEMPLE, Plaintiff in this case do certify that I have served Plaintiff's motion to Amend and Supplement Post-conviction Relief Application grounds on the Attorney General, Alan Wilson by mailing a copy of the same by placing it in the United States mail at Lieber Correctional Institution Postage Prepaid, to the following address:

Attorney General
 Alan Wilson
 P.O. Box 11549
 Columbia, SC 29211

January 6, 2014


 Dennis M. Temple, # 274802
 Lieber Corr. Inst EB-35
 P.O. Box 205
 Ridgeville, SC 29472

ENTERED
 10
 COMPUTER

FILED OCONEE, SC
 BEVERLY H. WHITFIELD
 CLERK OF COURT
 STATE OF SOUTH CAROLINA
 COUNTY OF Oconee
 2014 JAN 14 AM 10 51
 IN THE COURT OF Common Pleas
 TENTH Judicial Circuit

2013 - CP - 37 - 729

DENNIS M. TEMPLE, # 274802

Plaintiff,

V.

STATE OF SOUTH CAROLINA

Defendant.

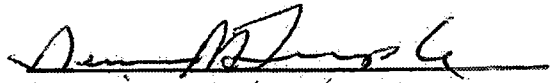
CERTIFICATE

OF

SERVICE

I, DENNIS M. TEMPLE, Plaintiff in this case do certify that I have served Plaintiff's motion to Amend and Supplement Post-conviction Relief Application grounds on PCR Attorney, Hugh W. Welborn by mailing a copy of the same by placing it in the United States mail at Lieber Correctional Institution Postage PrePaid, to the following address:

Hugh W. Welborn
 Attorney at Law
 P.O. Box 173
 Anderson, SC 29622


 Dennis M. Temple, # 274802
 Lieber Corr. Inst EB-35
 P.O. Box 205
 Ridgeville, SC 29472

January 6, 2014Copies Returned
inmate

ENTERED

 COMPUTER

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

IN THE COURT OF COMMON PLEAS
10th Judicial Circuit
2013 - CP - 37 - 00729

DENNIS MAURICE TEMPLE

Plaintiff,

VS.

STATE OF SOUTH CAROLINA

Defendant,

MEMORANDUM

IN

SUPPORT

OF

SUMMARY

JUDGMENT

FILED MAR 5 PM 12 51
DEPT. OF COURT
CLERK OF COURT

2013 MAR 5 PM 12 51

STATEMENT OF THE CASE

ON May 11, 2010 Plaintiff was arrested by Oconee County Sheriff's Department officer Lieutenant Breg Reed and Lieutenant Jerry Moss and charged with kidnaping, Criminal Sexual Conduct first degree and Grand Larceny. ON May 12, 2010 Plaintiff was taken before magistrate Judge Blake Norton who issued a \$ 200,000 Bond against Plaintiff to gain his freedom. Plaintiff was - unable to post the bail and remained

detained at the Oconee County Detention center. On December 13-15 2010, Plaintiff proceeded pro se in a Jury Trial at the Oconee County Courthouse. A Jury found Plaintiff guilty on December 15, 2010 on (2) two counts of criminal Sexual Conduct in the first degree, kidnapping and Grand Larceny. Plaintiff's main contention is that he was not identified as the assailant in the alleged victim's statement; it did not connect any criminal activity to storage unit # 193; it did not connect any criminal activity to Dennis Temple; and it did not connect Dennis Temple to storage unit # 193. The officer that applied for the arrest warrants committed perjury and that there was no Probable Cause to arrest him. In violation of S.C. code of laws § 17-13-140; § 22-3-710 and § 61-2-220, et seq; S.C. Constitution, Article 1, Section 10 and the 4th Amendment of the U.S. Constitution.

STATEMENT OF THE FACTS

On May 10, 2010 a 19 year old white female clemson student named Catherine McGough alleged in her seven page statement to Police at the Oconee medical Center inconclusion that - "On May 9, 2010 she arrived at her storage unit at the All safe storage in Seneca, South Carolina at 4:30 P.M. When she noticed a blackman between the age 20 to 40 walking on site without a car. she became nervous and he tried to sell her some shoes, but she did not want to buy. He then beat her up, drassed her into his storage unit where he raped her, cleaned her out with a blue cloth and stole her car and left her inside his storage unit tied up. (Temple Aff., P. —; see Exhibit —). or Catherine McGough's (7) seven Page statement.

That same day, On May 10, 2010 Deconee County Sheriff's Department officer Sergeant Scott Arnold had magistrate Judge Blake Norton issue (3) three arrest warrants for Dennis Temple's arrest.

Sergeant Scott Arnold Swearred in his arrest warrant affidavit for kidnapping that there is probable cause to believe that the defendant Dennis Temple did commit the crime set forth and that probable cause is based on the following, "Quote"

"The Defendant Did on 05-09-10 unlawfully and without authority to do so, ABDUCT, confine and inveigle the victim, Catherine McGough against her will while accompanied by aggravated circumstances. This Defendant Did force the victim from her storage unit, Unit 177. To his Personal storage unit, Unit 193, where he committed the crime of criminal sexual conduct against

the victim. The victim was Tied up and left inside the Defendant's storage unit. This incident occurred at 600 Shiloh RD. Seneca, SC in Dconee County and was investigated By OCSO. A written Report, Photographs and statements are on file. case # 1012105."

IN addition, Sergeant Scott Arnold swore in his arrest warrant affidavit for criminal Sexual Conduct 1st degree that there is Probable cause to believe that the defendant Dennis Temple did commit the crime set forth and that Probable cause is based on the following, "Quote "

" The Defendant Did, on 05-09-10, while committing the crime of Kidnapping, engage in sexual Battery upon the victim, Catherine McGough, by performing sexual intercourse on the victim against her will. The Defendant Did, while at Unit 193. All safe storage, 600 Shiloh RD. Seneca, SC in Dconee

county, force sexual intercourse with the victim. victim was Transported to Omc for examinations. Investigated by OCSO. A written Report, Photographs and statements are on file. case # 1012105.

Lastly, sergeant, Scott Arnold Swearred in his arrest warrant affidavit for Grand Larceny that there is Probable Cause to believe that the defendant Dennis Temple did commit the crime set forth and that Probable cause is based on the following, "Quote"

" The Defendant did on 05-09-10 with intent to permanently Deprive the owner, Take and carry away a 2008 Honda accord, West Virginia TAG # NL3593, valued at more Than \$ 5,000.00, which belonged to Catherine McGOUGH. This incident occurred at 600 Shiloh RD. Seneca, SC in Oconee County and was investigated by OCSO. A written Report is on file. case # 1012105.

(Arrest Warrant # 136670 for criminal Sexual Conduct, 1st degree; Arrest Warrant # 136669 for kidnapping and Arrest Warrant # 136668 for Grand Larceny. (Temple Aff. P ____; Exhibits _____.

LEGAL DISCUSSION

U.S. Constitution, 4 Amendment Search and Seizures

The right of the people to be secure in there persons, houses, papers, and effects, against UNreasonable searches and seizures, shall not be violated, and NO Warrants shall issue, but UPON Probable cause, supported by Oath or affirmation, and particularly describing the Place to be searched, and the persons or things to be seized.

S.C. Constitution: Article I, Section 10. Searches and seizures; invasions of Privacy

The right of the people to be secure in there persons, houses, papers, and effects against unreasonable searches and seizures and unreasonable invasions of Privacy shall not be violated, and NO Warrants shall issue but UPON Probable cause, supported by Oath or affirmation and Particularly describing the place to be searched, the person or thing to be seized, and the information to be obtained.

THE SEARCH

The Constitutions of the United States and the state of South Carolina require that search warrants be "supported by Oath or affirmation." U.S. Const. Amend. IV; S.C. Const. Art. I section 10.

This is a minimum standard and state legislatures are free to enact stricter requirements for the issuance of search warrants. State v. York, 250 S.C. 30, 156 S.E. 2d 326 (1967). The South Carolina General Assembly has enacted a requirement that search warrants may be issued "ONLY UPON affidavit sworn to before the magistrate . . . establishing the grounds for the warrant." S.C. Code ANN. Section 17-13-140 (1985). A search warrant that would survive constitutional scrutiny may still be defective under statute. State v. McKnight, 289 S.C. 167, 337 S.E. 2d. 208 (1987). In addition, the statutory requirement that all proceedings before magistrates in criminal cases shall be commenced on information under oath, plainly and substantially setting forth the offense charged, upon which, and only which, shall a warrant of arrest issue," cannot be waived. Town of Honea Path v. Wright, 194 S.C. 461, 9 S.E. 2d 924 (S.C. 1940); S.C. Code ANN § 22-3-710 (1976); Gist v. Berkeley County Sheriff's Depart-

ment, 336, S.C. 611, 521 S.E.2d 163 (1999). The purpose of the statute requiring that a warrant be issued only upon affidavit is to provide for timely recording of facts presented to a Judicial officer. State v. Sachs, 264 S.C. 541, 216 S.E.2d 501 (S.C. 1975). A warrant affidavit is "insufficient in itself to establish Probable cause may be supplemented before a magistrate by sworn oral testimony." State v. Crane, 296 S.C. 336, 372 S.E.2d 587 (1988). However, a warrant issued upon a statement of facts not sworn to is UNCONSTITUTIONAL. State v. Wimbush, 9 S.C. 309 (1878).

An affidavit is a voluntary ex parte statement reduced to writing and sworn to or affirmed before some person legally authorized to administer an oath or affirmation. It differs from an Oath in that an affidavit consists of a statement of fact which is sworn to as the truth, while an Oath is a Pledge. While a sworn, oral statement may be sufficient to

satisfy the Constitutional requirement for oath or affirmation, it does not satisfy the statutory requirement of an affidavit. State v. Knight, 289 S.C. 167, 337 S.E. 2d 208 (1987).

South Carolina is one of the Jurisdictions allowing affidavit set out on information and belief. When the facts are set out on information and belief, the affiant is required to show the source of his knowledge. S.C. code of Laws § 61-2-220, et seq. (1976); State v. York, 250 S.C. 30, 156 S.E. 2d 326 (1967). State v. Hill, 245 S.C. 76, 138 S.E. 2d 829 (1964).

ARGUMENT

IN this Present case, the three arrest warrants affidavits which were sworn to by affiant or Sergeant, Scott Arnold are merely conclusionary statements which give the Magistrate NO basis to make a independent Judgment regarding probable cause are insuffic-

ient. "His action cannot be a mere ratification of the bare conclusions of others. State v. Viard, 276 S.C. 147, 276 S.E. 2d 531 (1981). State v. Smith, 301 S.C. 371, 392 S.E. 2d 182 (1990). Illinois v. Gates, 462 U.S. 213, 239, 103 S.Ct. 2317, 2333, 76 L.Ed. 2d 527, 549 (1983). Sergeant, Scott Arnold affidavits are not based on personal knowledge, but on information and belief. There is a statutory requirement that an affidavit on information and belief set forth sources of affiant's information so magistrate may judicially weigh not only the information, but source thereof, in determining whether or not there is probable cause for issuance of the warrant. S.C. Code of Laws § 61-2-220. et seq. (1976); State v. York, 250 S.C. 30, 156 S.E. 2d 326 (1967). State v. Hill, 245 S.C. 76, 138 S.E. 2d 829 (1964).

In this case, sergeant, Scott Arnold stated his probable cause and source of his information within his affidavits in all three arrest warrants stating.....

"A written Report, Photographs and statements are on file. case # 1012105.

When these arrest warrants were issued and at the time of Dennis Temple's arrest on May 11, 2010, the only "written Report" and "statements on file was the alleged victim's (7) seven page statement and possibly a photo lineup of (6) six blackmales. However, this sworn statement by the alleged victim or the source of Sergeant Scott Arnold information and belief: (1). did not state that Dennis Temple was identified in the photo lineup as the assailant or Blackman, (2). it did not connect any criminal activity to storage unit # 193, (3). it did not connect any criminal activity to Dennis Temple, (4). it did not connect Dennis Temple to storage unit # 193.

In conclusion, Oconee County Sheriff's Department officer, Sgt. Scott Arnold probable cause determination in the arrest warrants were issued upon

three affidavits that were based on information and belief, which stated the source. The affiant source of information (alleged victim's statement) did not identify DENNIS TEMPLE as the assailant or blackman; it did not state that DENNIS TEMPLE and storage unit # 193 were involved in the criminal activity, and it did not connect him to the storage unit # 193. Therefore, the information that was included in the statement by the alleged victim or source was misleading and false.

As a result, Sgt. Scott Arnold committed perjury, magistrate Judge Blake Norton was not impartial and there was no probable cause to arrest Dennis Temple.


DENNIS TEMPLE, # 274802
Lieber Corr. Inst EB-35
P.O. Box 205
Ridgeville, SC 29472

February 28, 2014

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

IN THE COURT OF COMMON PLEAS
10th Judicial Circuit
2013 - CP - 37 - 00729

DENNIS MAURICE TEMPLE

Plaintiff,

vs.

STATE OF SOUTH CAROLINA
Defendant,

AFFIDAVIT

OF

DENNIS TEMPLE

PERSONALLY APPEARED BEFORE ME, Dennis Temple,
who being first duly sworn deposes and says:

1. ON May 11, 2010 I was arrested by
Oconee County Sheriffs Department officer
Lieutenant Greg Reed and Lieutenant Terry
Moss for allegedly committing the crimes
of kidnapping, criminal sexual conduct,
1st degree and Grand Larceny. (A copy
of (3) three arrest warrants is attached
hereto and incorporated herein by
reference as Exhibits 2, 3 and 4.

2. Lieutenant Reed stated a few words to me. I told him that I have nothing to say and requested a attorney. my rights were read to me. I was handcuffed and escorted to the Oconee County Detention Center.

3. Once I was inside the Oconee County Detention Center. I was questioned by the booking officer. I was fringer printed and my picture was taken. I signed a form refusing protective custody. I was told to changed out of my street cloths and to put on a orange uniform.

4. The next day - On May 12, 2010 I was taken before magistrate Judge Blake Norton, which he issued a \$200,000 dollar bond against me to gain my freedom for the charges. (A copy of the Bond Papers dated 5-12-2010 is attached hereto and incorporated herein by reference as exhibit 21).

5. I was unable to post bail on the \$200,000 dollar bond and remain detained in the Oconee County Detention Center, where I was housed in C-cell general population.

6. On June 7, 2010 I filed a motion for Discovery and Inspection as well as Brady materials and Rule 6 with the Oconee County clerk of Court.

7. On July 2010 I receive from the solicitor Chrissy T. Adam documents regarding my discovery request, which included the (7) seven page sworn written statement by the alleged victim Catherine McGough. (A copy of the Catherine McGough (7) seven page, sworn written statement dated 5-10-2010 is attached hereto and incorporated herein by reference as Exhibit 1.

8. ON December 13-15 2010. I proceeded pro se in a Jury Trial at the Oconee County Courthouse. A Jury found me guilty on December 15, 2010 on (2) two counts of criminal Sexual conduct in the first degree, kidnapping and Grand Larceny. (A copy of (4) four sentencing sheets dated December 15, 2010 is attached hereto and incorporated herein by reference as Exhibit 20).

FUTHER THE DEPONENT SAYETH NOT.


 Dennis Temple, # 274802
 Lieber Corr. Inst EB-35
 P.O. Box 205
 Ridgeville, SC 29472

February 27, 2014

Sworn To AND acknowledged before
 me this 27 day of February 2014.

Michelle R. Stone
 NOTARY Public for South Carolina
 my commission Expires: 8/20/2014

ARREST WARRANT

N-136670

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

THE STATE

1012105

against

Dennis Maurice Temple

Address:

Seneca, SC 29678-

Phone: SSN: [REDACTED]

Sex: M Race: B Height: 5 11 Weight: 198

DL State: SC DL #: 004434239

DOB: 11/12/1972 Agency ORI #: SC0370000

Prosecuting Agency: Oconee County Sheriff

Prosecuting Officer: Scott Arnold - 1011

Offense: Sex / Criminal sexual conduct - First degree

Offense Code: 0160

Code/Ordinance Sec: 16-03-0652

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant: Dennis Temple

on 5-11-10

Kevin Davis 5790
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Walhalla Magistrate
208 Booker Drive
Walhalla, SC 29691

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STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

Personally appeared before me the affiant Scott Arnold

being duly sworn deposes and says that defendant Dennis Maurice Temple

did within this county and state on or about 05/09/2010

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Oconee

in the following particulars:

DESCRIPTION OF OFFENSE Sex / Criminal sexual conduct - First degree

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

THE DEFENDANT DID, ON 05-09-10, WHILE COMMITTING THE CRIME OF KIDNAPPING, ENGAGE IN SEXUAL BATTERY UPON THE VICTIM, CATHERINE MCGOUGH, BY PERFORMING SEXUAL INTERCOURSE ON THE VICTIM AGAINST HER WILL. THE DEFENDANT DID, WHILE AT UNIT 193, ALL SAFE STORAGE, 600 SHILOH RD., SENE SC IN OCONEE COUNTY, FORCE SEXUAL INTERCOURSE WITH THE VICTIM. VICTIM WAS TRANSPORTED TO OMC FOR EXAMINATIONS. INVESTIGATED BY OCSO. A WRITTEN REPORT, PHOTOGRAPHS AND STATEMENTS ARE ON FILE. CASE #1012105.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

Affiant's Address 300 S Church Street

Walhalla, SC 29691-

Affiant's Telephone (864)638-4111

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe

on or about 5/9/2010

defendant Dennis Maurice Temple

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Oconee

) as set forth below:

DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct - First degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on 05/10/2010

Signature of Issuing Judge
Blake A. Norton (L.S.)

Judge Code: 5033

Judge's Address 208 Booker Drive

Walhalla, SC 29691-2278

Judge's Telephone (864)638-4125

Issuing Court ☒ Magistrate ☐ Municipal

ORIGINAL

EXHIBIT

2

766

FILED
CLERK OF COURT
SC 0102
3 DEC 3 2010
WALHALLA

N-136668

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

THE STATE

1012105

against

Dennis Maurice Temple

Address:

Seneca, SC 29678-

Phone: _____ SSN: 250-31-9730
 Sex: M Race: B Height: 5 11 Weight: 198
 DL State: SC DL #: _____
 DOB: 11/12/1972 Agency ORI #: SC0370000
 Prosecuting Agency: Oconee County Sheriff
 Prosecuting Officer: Scott Arnold - 1011
 Offense: Larceny / Grand Larceny, value \$5,000 or more

Offense Code: 0479

Code/Ordinance Sec: 16-13-0030(B)(2)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant Dennis Templeon 5-11-10

Kevin Davis 5790
 Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Walhalla Magistrate
 208 Booker Drive
 Walhalla, SC 29691

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☒ County/ ☐ Municipality of

Oconee

AFFIDAVIT

ORIGINAL

S.C. Attorney General
April 21, 2003

EXHIBIT

3

Personally appeared before me the affiant Scott Arnold
 being duly sworn deposes and says that defendant Dennis Maurice Temple
 did within this county and state on or about 05/09/2010
 State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Oconee
 in the following particulars:

DESCRIPTION OF OFFENSE Larceny / Grand Larceny, value \$5,000 or more

I further state that there is probable cause to believe that the defendant named above did commit
 the crime set forth and that probable cause is based on the following facts:

THE DEFENDANT DID, ON 05-09-10, WITH THE INTENT TO PERMANENTLY DEPRIVE THE OWNER, TAKE AND
 CARRY AWAY A 2008 HONDA ACCORD, WEST VIRGINIA TAG #NL3593, VALUED AT MORE THAN \$5000.00, WHICH
 BELONGED TO CATHERINE MCGOUGH. THIS INCIDENT OCCURRED AT 600 SHILOH RD, SENECA, SC, IN OCOO
 COUNTY AND WAS INVESTIGATED BY OCSO. A WRITTEN REPORT IS ON FILE. CASE #1012105

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

Affiant's Address 300 S Church Street
Walhalla, SC 29691-

Affiant's Telephone (864)638-4111

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe

on or about 5/9/2010 defendant Dennis Maurice Temple

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Oconee

) as set forth below:

DESCRIPTION OF OFFENSE: Larceny / Grand Larceny, value \$5,000 or more

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
 her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
 soon thereafter as is practicable
 Sworn to and subscribed before me

on 05/10/2010

Signature of Issuing Judge

Blake A. Norton

Judge Code: 5033

(L.S.)

Judge's Address 208 Booker Drive
Walhalla, SC 29691-2278

Judge's Telephone (864)638-4125Issuing Court: ☒ Magistrate ☐ Municipal

RECEIVED
 767

ARREST WARRANT

N-136669

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

THE STATE

1012105

against

Dennis Maurice Temple

Address:

Seneca, SC 29678-

DOB: _____ SSN: 250-31-9730

Race: B Height: 5 11 Weight: 198

L State: SC DL #: _____

DOB: _____ Agency ORI #: SC0370000

Prosecuting Agency: Oconee County Sheriff

Prosecuting Officer: Scott Arnold - 1011

Offense: Kidnapping / Kidnapping

Offense Code: 0095

Code/Ordinance Sec: 16-03-0910

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

to be arrested and brought before me to be
alt with according to the law.

(L.S.)

Signature of Judge

file:

RETURN

copy of this arrest warrant was delivered to

defendant Dennis Temple

5-11-10

Kevin Davis 5790

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Walhalla Magistrate

208 Booker Drive

Walhalla, SC 29691

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STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

AFFIDAVIT

ORIGINAL

S.C. Attorney General
April 21, 2003
SCGA 518Personally appeared before me the affiant Scott Arnoldbeing duly sworn deposes and says that defendant Dennis Maurice Templedid within this county and state on or about 05/09/2010State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Oconee

in the following particulars:

DESCRIPTION OF OFFENSE Kidnapping / Kidnapping

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

THE DEFENDANT DID, ON 05-09-10, UNLAWFULLY AND WITHOUT AUTHORITY TO DO SO, ABDUCT, CONFINED AND INVEIGLE THE VICTIM, CATHERINE MCGOUGH, AGAINST HER WILL WHILE ACCOMPANIED BY AGGRAVATED CIRCUMSTANCES. THIS DEFENDANT DID FORCE THE VICTIM FROM HER STORAGE UNIT, UNIT 177, TO HIS PERSONAL STORAGE UNIT, UNIT 193, WHERE HE COMMITTED THE CRIME OF CRIMINAL SEXUAL CONDUCT AGAINST THE VICTIM. THE VICTIM WAS TIED UP AND LEFT INSIDE THE DEFENDANT'S STORAGE UNIT. THIS INCIDENT OCCURRED AT 600 SHILOH RD, SENECA, SC IN OCONEE COUNTY AND WAS INVESTIGATED BY OCSO. A WRITTEN REPORT, PHOTOGRAPHS AND STATEMENTS ARE ON FILE. CASE #1012105.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

Affiant's Address: 300 S Church Street

Walhalla, SC 29691-

Affiant's Telephone: (864)638-4111

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 5/9/2010defendant Dennis Maurice Temple

did violate the criminal laws of the State of South Carolina (or ordinance of:

☒ County/ ☐ Municipality of Oconee

) as set forth below:

DESCRIPTION OF OFFENSE: Kidnapping / Kidnapping

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable
Sworn to and subscribed before me

on 05/10/2010

Blake A. Norton (L.S.)
Signature of Issuing Judge

Blake A. Norton

Judge Code: 5033

Judge's Address: 208 Booker Drive

Walhalla, SC 29691-2278

Judge's Telephone: (864)638-4125

Issuing Court: ☒ Magistrate ☐ Municipal

ORIGINAL

768

EXHIBIT

4

FILED
RECEIVED
CLERK OF COURT
MAY 11 P 3:33
2010

EXHIBIT 769

1

VOLUNTARY STATEMENT

DATE 5-10-10 PLACE Deer Creek Medical Center TIME STARTED 6:30 A.M.
 I, the undersigned, Catherine [REDACTED] am 19 years of age, my date and place of
 birth being [REDACTED]
 I declare that the following voluntary statement is made by my own free will without promise of hope or reward, without fear or threat of physical harm, without coercion, force or offer of
 favor, without intimidation or offer of intimidation by any person or persons whatsoever

a person who identified himself as a
 duly warned and advised me, and I know and understand that I have the following rights: That I have the right to remain silent and I do not have to answer any questions or make any
 statements at all; that any statement I make can and will be used against me in a court or courts of law for the offense or offenses concerning which the following statement is hereinafter
 made; that I have the right to consult with a lawyer of my own choice before or at anytime during any questioning or statements I make; that if I cannot afford to hire a lawyer, I may
 request and have a lawyer appointed for me by the proper authority, before or at anytime during any questioning or statements that I make, without cost or expense to me; that I can stop
 answering any questions or making any statements at any time that I choose, and call for the presence of a lawyer to advise me before continuing any more questioning or making any more
 statements in, whether or not I have already answered some questions or made some statements

I do not want to talk to a lawyer, and I hereby knowingly and purposely waive my right to remain silent, and my right to have a lawyer present while I make the following statement to the
 aforesaid person, knowing that I have the right and privilege to terminate any interview at any time hereafter and have a lawyer present with me before answering any more questions or
 making any more statements, if I choose to do so

I declare that the following voluntary statement is made by my own free will without promise of hope or reward, without fear or threat of physical harm, without coercion, force or offer of
 favor, without intimidation or offer of intimidation by any person or persons whatsoever

On my 9th 2010 at 4:30pm I drove to All-Safe Storage
 Facility in Seneca SC in my 2008 Honda Accord (two-door,
 red gay). Upon entering the gate I saw the assailant
 walking out of the entrance. He was a black man
 somewhere between the ages 20 and 40⁺ wearing a gray
 sweat-suit. I proceeded to my storage unit, unit 137, parked
 my car, left it unlocked and left the windows rolled down.
 I unlocked my storage unit, lifted the door, left the
 lock on the door, and set my keys on the trunk of the car.
 After I popped the trunk, I had unlocked about half of
 my load. So there was a square basket containing a wire
 shopping garden decoration (3 ft tall) and a few other ^{cm} miscellaneous
 miscellaneous objects, when the assailant walked towards me.
 He was wearing the same clothing and was carrying two types
 of tennis shoes in either hand. I noted that behind him
 was a storage unit (which I later found out was in fact
 his). All I could see inside was a mattress propped up on the
 its long skinny side, creating a horizontal barrier in the
 doorway. As he approach, he asked what my shoe size was.
 He was about 30 ft away from me at this point. I replied
 "As I walked away from my storage unit. He asked me once
 he got about 10 ft away from me, if I was interested in
 pairs of these shoes. They were worn like running shoes and

truly I have read and a copy of this statement

are read each page of this statement consisting of _____ pages, each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained
 are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, and at any time before it was finished
 I consent that this statement be signed. I also declare that I was not told or prompted what to say in this statement

This statement was completed at June 5 4 M. on the 10th day of May, 20 10

John M. Galtman
 my Public for SC
 Commission Expires 8-7-2010
 JESSIE [REDACTED] RN

Signature of person giving voluntary statement

VOLUNTARY STATEMENT

USE FOR ADDITIONAL PAGES ONLY

PAGE # 2

was pink with a dollar bill pattern printed on it. The other was orange. I told him that I was saving up for a trip and that I shouldn't spillage. He asked where I was going. At this point I was a little uncomfortable so I was looking for my keys so that I could finish up. I had forgotten I had placed them on the trunk. I responded "Ireland". He asked if that was where I was from. I responded vaguely with "Sort of". He walked away. I was still looking for my keys when he walked back towards me. I saw that he had gone into the open storage unit. This time he had one ^{on} shoe and a belt slung over his right shoulder. I was quite uncomfortable and flustered at this point. So I may have acted flustered. He asked if I was alright. I responded that I had had a busy morning. I closed the trunk. He asked if I would help him move something. I asked what it was. He hesitated and said a "dresser sort of thing". (There is no dresser anything in his unit). I said that I didn't mean to be rude but that I had to get going. I had walked to the drivers side and was at the door when he pointed out that I had left the storage unit open and unlocked. As much as I wanted to leave I decided to close the unit. I closed the door but it got caught on another square basket. He was next to me at this point. Helped me move the box. Then as I was standing up he pushed me forward into the unit. At the time there was a chair in the middle of the unit that was about 1 to 2 feet wide that fell into. I landed on my stomach, but quickly flipped over to my back. I still had my wallet ^{on} in my right hand. My wallet is a black ^{on} which wallet with the keys to my car, my dorm room, and my

I certify I have received a copy of this statement.

I have read each page of this statement consisting of _____ page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 10:05 A .M. on the 10th day of May, 2010.

Dilie M. Burton

Notary Public for S.C.

My Commission Expires 8-7-2018

WITNESS:

Carey (Carmy) (K)

WITNESS:

[Signature]
Signature of person giving voluntary statement

VOLUNTARY STATEMENT
USE FOR ADDITIONAL PAGES ONLY

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PAGE # 3

Storage unit attached. I also still had my ^{prescription} glasses on. After I slipped over I started screaming "get the fuck off of me" and "help" as loud as I could while deterring him by kicking. In the process I lost my shoes. I was wearing spandex boat shoes, a pair of navy shorts, black panties, a nude bra, and a white see-through t-shirt. I took my car key and jabbed it into the left side of his neck. At this, he punched me square in the nose so hard that I lost my grip on the keys and it broke my glasses. I continued screaming, but he then strangled me with his hands. I could still breathe but barely. We were both on the ground at this point; he was over top of me. He let loose the stranger and I continued to scream. This time he strangled me so that I could not breathe at all and my vision was darkening. When he let loose this time I didn't scream. He had put a two inch leather belt around my neck, and had led me to the doorway of my storage unit. No one was in sight, it was still broad daylight. It was probably about 4:45pm at this point. He said that when he said so, we were going to run. I misunderstood and thought that he was letting me run away. I quickly realized my misinterpretation when he started pulling me towards the open storage unit. His storage unit was diagonally to the right from my storage unit. I never saw the number due to my lack of glasses. I started screaming again. I somehow ended up on the ground with him strangling me with the belt. This part is blurry because I passed out from him strangling me. I came to with him standing over me, saying things that I didn't register. He half dragged me to the storage unit. We stayed close to the ^{back of the} storage units that were located in the middle of the rectangular area. The ground

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This statement was completed at 10:05 A.M. on the 10th day of May, 2010.

Debbie M. Adkins
Notary Public for S.C.

My Commission Expires 8-7-2013

WITNESS: [Signature]

WITNESS: [Signature]

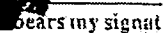
Signature of person giving voluntary statement

VOLUNTARY STATEMENT
USE FOR ADDITIONAL PAGES ONLY

PAGE# 4

dirt and gravel. This is where most of my scratches were obtained. The heaviest ^{cm} concentration of scratches was on the outside of my left leg. My back and shoulders also sustained heavy scratches. We entered the storage unit. There was only a small aisle to walk through, between the mattress earlier described and the wall, about three feet wide. This storage unit was bigger than mine. It looked to be about a 10' by 10'. There was another mattress propped up behind the first described mattress; they were set up in the same fashion. Between those two mattresses was a mattress and a ^{cm} box spring lying down behind the standing mattresses. On the mattresses were floral print sheets with a magenta comforter of some kind of smooth shiny fabric on top of the sheets. There were maps in the corner front right corner. A pair of jeans were stuffed on either side of the door, filling small holes. The right side wall was ^{cm} loaded with "junk", clothes, a box of hats and masks, a printer, and ^{cm} boxes of Nike running shoes. He put me on the bed. Pulled a sock out of a black stringed athletic bag, and put it in my mouth. I used my tongue to keep the gag from going too far. He used a white sheet to rip strips to tie me with. He used one of those strips to keep the sock in my mouth by tying it around my head. He tied my arms behind my back and then tied my ankles together. Using another binding, he attached the ties from the ankles and wrists together. He asked me if I had family in Clemson. I said yes, although I do not. He asked ^{cm} ~~me~~ if I had money in my car, I said yes. He told me that he was going to go get the money out of the car. He threw the magenta blanket over my head. It then sounded like he closed the gate and locked it. I heard the door to the storage unit go down and I heard the car

I certify I have received a copy of this statement 

I have read each page of this statement consisting of 4 pages.  bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 10:05 A .M. on the 10th day of May, 2010.Vivie M. Bolton

Notary Public for S.C.

My Commission Expires 8-7-2018WITNESS: CMWITNESS: 

Signature of person giving voluntary statement

alarm go off although I'm not sure in which order. He came back to his storage unit and asked me questions while he fumbled around with something from the pile on the right wall. I couldn't see what it was. I was still on my stomach with my head facing the standing mattresses. He asked how much money was ~~in~~^{on} in my account. I told him three thousand. He muttered repetitively about "rich white girl". He called me over and I then said that he was undressed. He said "I am going to rape you, now" he asked if I would like that I said "no" and he asked for me to repeat it several times. Then he asked if I wanted to die. I again said "no". He told me that I had better stay quiet, then. He said that he'd slit my throat. That it would take anyone too long to get in to help me and that he didn't care about getting caught. His reason he said was, "because, you see this shithole? This is where I live, it's all I have". He had cut my bonds with something, I'm not sure what it was, but it seemed to be a small knife. He ~~cut~~^{cut} pulled off my shorts, then my underwear. He commented about me "pissing on my clothes". Apparently I had urinated when I had passed out. He pulled up my shirt and bra and inserted himself into my vagina. I stayed quiet. And he said "I'm sorry baby, baby I'm so sorry" and kissed me on my ~~leg~~^{leg} left cheek twice. That is the only contact I ever had with his mouth. After a minute or so, he stood up, cursing himself for what he had done. I assume that means ~~he~~^{he} cumming inside of me, because he then proceeded to wash me out. He took a blue cleaning rag and dunked it into a liquid. He rubbed the rag around my crotch and inserted it. He used his finger and then picked up the power aid bottle and filled it with the same liquid that the rag was dipped in. He put the power aid a centimeter or so into me and squeezed the liquid out into me. He dressed. I urinated

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This statement was completed at 10:05 A M. on the 10th day of May, 2016

Diana M. Sotomayor
 Notary Public for S.C.

My Commission Expires 8-7-2018

WITNESS: Cas [Signature]

WITNESS: _____

[Signature]

Signature of person giving voluntary statement

VOLUNTARY STATEMENT

USE FOR ADDITIONAL PAGES ONLY

PAGE # 6

on the already soaked bed. He tied me up, asked what my bin number was. I still was gagged, but I used my hand to tell him the four digits. He asked which card and which rank. I told him the visa and BBET. He finished tying me. This time, instead of tying my hands and feet to each other, he tied a binding around my neck and to my legs, so that I could drop neither my head or legs. This is where I sustained most of my neck injuries I believe. I struggled quite a bit because the ~~rope~~ ^{rope} was painful. He again threw the blanket over me, but before that he had used electrical tape to tie my gag this time. He said that he was leaving to go to the store down the street. About 30 minutes he returned, with the car parked outside of the unit playing 98.1 loudly. He came back in quickly and zipped something up. I was still not able to see what was going on. I moaned and he came over and pulled the tape gag down some so that I could speak. I said that I couldn't breathe and he said that I could breathe fine ~~fine~~. He pushed the gag back in and piled more blankets over my head. He left the unit, closed and locked the door. I could hear the car move. I found that I could get one arm loose, but stayed in the other bindings in case he got back. After about 2 hours, I saw that it was dark outside (I had rolled the blankets off of my head earlier). I untied all of my bounds and used a head lamp flashlight to look around the unit. I tried the door and it was indeed locked. I couldn't find anything to open it with. I looked around for any weapons. I found holes in all of the mattresses. Inside the hole in the box spring I stuffed the belt that had still been around my neck, a broken coat hanger, and the electrical tape that he had used to tie my second gag with. I saw the poweraid bottle floating in a tub bucket that was knee height and about a foot in diameter. It smelled like some kind of cleaning

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I have read each page of this statement consisting of _____ page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 10:05 A M. on the 10th day of May, 2010.

Notary Public for S.C.

My Commission Expires

8-7-2018

WITNESS:

WITNESS:

Signature of person giving statement

VOLUNTARY STATEMENT
USE FOR ADDITIONAL PAGES ONLY

775

PAGE # 7

agent and next to the basket was a lysol bottle and a sprite bottle. Inside the sprite bottle was more cleaning agent. I heard him walking back so I returned to the bed. He seemed in a better mood. I asked him to please let me go, that I wouldn't cause trouble. He said okay but that he had to go get the car first. He gagged me with banding from the sheet and a sock. He said that he'd be back. ~~more on~~ ^{on} while he was speaking with me, he packed a black duffle bag with Nike shoe boxes, but didn't finish packing and left it open. When he had walked in he had some sort of canvas bag or clothing item. He kept checking the pockets of that item and on the mattresses and other boxes around the room. He never found it and left in a hurry. I got up and looked around after he was gone for an hour or so. I walked over to ~~the~~ black duffle bag and saw a cell phone in a container that had been covered before. I turned it on and it worked. I dialed 911. A man answered. I described who I was and where I was. I spoke with him until I heard sirens and voices calling for me. I took the boards off of my feet and banged on the door. The officers busted the door down. And I left the unit with the cell phone (a red small flip phone), and some of the remaining boards.

I certify I have received a copy of this statement ~~_____~~
I have read each page of this statement consisting of _____ page(s); each page or when I sign my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 10:05 A.M. on the 10th day of May, 2016.

Valerie M. [Signature]
Notary Public for S.C.

My Commission Expires 8-7-2018

WITNESS: [Signature]

WITNESS: _____

[Signature]
Signature of person giving voluntary statement

STATE OF SOUTH CAROLINA
COUNTY OF Oconee
STATE:

VS.

Dennis Maurice Temple

AKA:
Race: B Sex: M Age: 38
DOB: 11-12-1972 SS#: [REDACTED]
Address: [REDACTED] Ave
City, State, Zip: Honea Path, SC 29654
DL# [REDACTED] SID# SC01934217

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
TO: Sex / Criminal sexual conduct - First degree

In violation of § 16-03-0652 of the S.C. Code of Laws, bearing CDR Code # 0160

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

The charge is: ☒ As indicted, ☐ Lesser Included Offense,

The plea is: ☐ Without Negotiations or Recommendation,

☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)

☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature] 70224
Solicitor SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,
for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are
incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: 12/15/10 sentence

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
Department of Corrections. 5/11/10

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, It is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms:

☐ Set by SCDPPPS

Recipient:

Fine:		\$	
14-1-208 (Assessments 107.5%)		\$	
14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$	100.00
14-1-211 (A)(2)(DUI Surcharge)	\$100	\$	
56-5-2995 (DUI Assessment)	\$12	\$	
56-1-286 (DUI Breath Test)	\$25	\$	
Proviso 47.9 (Public Def/Prob)	\$500	\$	
14-1-212 (Law Enforce. Funding)	\$25	\$	25.00
14-1-213 (Drug Court Surcharge)	\$150	\$	
50-21-114 (BUI Breath Test Fee)	\$50	\$	
56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$	
Proviso 90.5 (SCCJA Surcharge)	\$5	\$	5.00
14-53-450(C) (Conditional Discharge)	\$350	\$	
4 to County (if paid in installments)		\$	3.90
JTAL		\$	133.90

ark of Court/Deputy Clerk

urt Reporter:
SCCA217 (08/2010)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2010GS3700887

AW#: 2010GS3700887

Date of Offense: 5/9/2010

S.C. Code §: 16-03-0652

CDR Code #: 0160

EXHIBIT

20

SENTENCE

☒ CONVICTED OF or ☐ PLEADS

Obtain GED ☐

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: _____

☐ Conditional Discharge, §44-53-450(C) requires
\$350 be paid to the Clerk prior to case disposition

☐ Appointed PD or appointed other counsel,
§47.12 requires \$500 be paid to Clerk
during probation.

Presiding Judge *[Signature]*

Judge Code: 131

Sentence Date 12/15/2010

DEC 30 2010

(Attachment L)

STATE OF SOUTH CAROLINA

COUNTY OF Oconee

STATE

VS.

Mr. Dennis Maurice Temple

AKA:

Race: B Sex: M Age: 38

DOB: 11-12-1972 SS#: [REDACTED]

Address:

City, State, Zip:

DL# [REDACTED] SID# [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Larceny / Grand Larceny, value \$5,000 or more

In violation of § 16-13-0030(B)(2) of the S.C. Code of Laws, bearing CDR Code # 0479

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTES:

[Signature] 70224
Solicitor SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections ☐ County Detention Center, for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: 12/15/10 sentence☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 5/16/10☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine:		\$	
\$14-1-206 (Assessments 107.5%)		\$	
\$14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$	100.00
\$14-1-211 (A)(2)(DUI Surcharge)	\$100	\$	
\$56-5-2995 (DUI Assessment)	\$12	\$	
\$56-1-286 (DUI Breath Test)	\$25	\$	
Proviso 47.9 (Public Def/Prob)	\$500	\$	
\$14-1-212 (Law Enforce. Funding)	\$25	\$	25.00
\$14-1-213 (Drug Court Surcharge)	\$150	\$	
\$50-21-114 (BUI Breath Test Fee)	\$50	\$	
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$	
Proviso 90.5 (SCJA Surcharge)	\$5	\$	5.00
\$44-53-450(C) (Conditional Discharge)	\$350	\$	
3% to County (if paid in installments)		\$	3.90
TOTAL		\$	133.90

Clerk of Court/Deputy Clerk

Court Reporter:

SCCA217 (06/2010)

IN THE COURT OF GENERAL SESSIONS

777

INDICTMENT/CASE#: 2010GS3700886

AW#: N136668

Date of Offense: 5/9/2010

S.C. Code §: 16-13-0030(B)(2)

CDR Code #: 0479

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS(CSC w/minor 1st or Lowd Act)Presiding Judge *[Signature]*Judge Code: 131Sentence Date: 12/15/2010

A TRUE COPY

DEC 30 2010

CLERK OF COURT - OCONEE COUNTY

STATE 778 SOUTH CAROLINA
COUNTY OF Oconee
STATE

VS.

Mr. Dennis Maurice Temple

AKA:

Race: B Sex: M Age: 38

DOB: 11-12-1972 SS#: [REDACTED]

Address:

City, State, Zip:

DL# [REDACTED] SID# [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
TO: Kidnapping / Kidnapping

In violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
(CSC w/minor 1st or Lewd Act)

The charge is: ☒ As indicted, ☐ Lesser Included Offense,

The plea is: ☐ Without Negotiations or Recommendation,

☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)

☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTES:

[Signature] 70224
Solicitor SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are
incorporated by reference.

☒ CONCURRENT or ☒ CONSECUTIVE to sentence on: *[Signature]* 12/15/10 *[Signature]*

☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
Department of Corrections.

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____

☐ Set by SCDPPPS

Recipient:

*Fine: \$ _____

§14-1-206 (Assessments 107.5%) \$ _____

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

§56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00

§44-53-450(C) (Conditional Discharge) \$350 \$ _____

3% to County (if paid in installments) \$ 3.90

TOTAL \$ 133.90

Clerk of Court/Deputy Clerk

Court Reporter:

SCCA/217 (08/2010)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2010GS3700888

AW#: N136669

Date of Offense: 5/9/2010

S.C. Code §: 16-03-0910

CDR Code #: 0095

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

Obtain GED ☐

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning

\$ _____ Paid to Public Defender Fund

Other: _____

☐ Conditional Discharge, §44-53-450(C) requires
\$350 be paid to the Clerk prior to case disposition.

☐ Appointed PD or appointed other counsel,
\$47.12 requires \$500 be paid to Clerk
during probation.

Presiding Judge

Judge Code: 134

Sentence Date

DEC 3 0 2010

CLERK OF COURT - OCONEE COUNTY

STATE OF SOUTH CAROLINA

COUNTY OF Oconee

STATE

VS.

Mr. Dennis Maurice Temple

AKA:

Race: B Sex: M Age: 38

DOB: 11-12-1972 SS#: [REDACTED]

Address:

City, State, Zip:

DL# [REDACTED] SID# [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Sex / Criminal sexual conduct - First degree

In violation of § 16-03-0652 of the S.C. Code of Laws, bearing CDR Code # 0160

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature] 70224

Solicitor

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years and or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: 12/15/10☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 5/11/10☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:	\$	
\$14-1-206 (Assessments 107.5%)	\$	
\$14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ 100.00
\$14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
\$56-5-2995 (DUI Assessment)	\$12	\$
\$56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
\$14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
\$14-1-213 (Drug Court Surcharge)	\$150	\$
\$50-21-114 (BUI Breath Test Fee)	\$50	\$
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCJA Surcharge)	\$5	\$ 5.00
\$44-53-450(C) (Conditional Discharge)	\$350	\$
3% to County (if paid in installments)	\$	\$ 3.90
TOTAL	\$	\$ 133.90

Clerk of Court/Deputy Clerk

Court Reporter:

SCCA/217 (06/2010)

IN THE COURT OF GENERAL SESSIONS

779

INDICTMENT/CASE#: 2010GS3700889

AW#: N136670

Date of Offense: 5/9/2010

S.C. Code §: 16-03-0652

CDR Code #: 0160

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS(CSC w/minor 1st or Lowd Act)☐ Defendant Waives Presentment to Grand Jury.

(def.'s initials)

☐ Negotiated Sentence,☐ Recommendation by the State.Obtain GED ☐

Attend Voc. Rehab. Or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ Beginning

\$ Paid to Public Defender Fund

Other:

☐ Conditional Discharge, §44-53-450(C) requires \$350 be paid to the Clerk prior to case disposition☐ Appointed PD or appointed other counsel, §47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code:

Sentence Date

DEC 3 0 2010

**SPECIAL CONDITIONS
GENERAL SESSIONS BONDS**

FILED
CLERK OF COURT

2010 MAY 11 P 3:33

*** DEFENDANTS WHO FAIL TO COMPLY WITH SPECIAL CONDITIONS ***

***** WILL HAVE A BENCH WARRANT ISSUED FOR THEIR ARREST *****

1. All General Sessions Defendants that do not obtain private counsel shall make application for a Public Defender at the Clerk of Court Office on the 1st floor of the Oconee County Courthouse by paying a \$40.00 (forty dollar) non-refundable fee within 48 hours of release from jail.

2. Defendant shall within 24 hours of paying application fee at Clerk of Court's office contact Public Defender's office at 864.638.3133 and schedule an appointment for screening.

3. Incarcerated defendants will be contacted by the Public Defender's office within 3 working days of their arrest. These defendants will be represented by the Public Defender unless and until notified in writing that private counsel has been retained.

4. Defendants that obtain private counsel shall notify the Solicitor's Office by furnishing a letter of representation issued by their attorney within 96 hours of their release from jail.

5. Defendant **MUST** appear on the initial appearance date at the Solicitor's office. Failure to appear unless excused by Solicitor may result in revocation of your bond and a bench warrant issued.

6. Defendant is required to immediately notify the Solicitor's office of any changes in address, phone numbers, etc. or a bench warrant may be issued for your arrest.

7. Defendants must comply with all other conditions required by bonding magistrate.

Dennis L. Smith
Defendant

[Signature]
Bonding Magistrate

6-25-10
Initial Appearance Date

Set date 5-12-10

Attachment I
Sept 2008

White Copy - Clerk of Court

Yellow Copy - Solicitor's Office

Pink Copy - Defendant

MAY 12 2010

STATE OF SOUTH CAROLINA

COUNTY/CITY OF OCONEE

Dennis Maurice Temple
Name of Defendant

2009 MAY 17 P 3: 33

CHECKLIST

TRIAL COURT

- ☒ GENERAL SESSIONS COURT
☐ MAGISTRATE COURT
☐ MUNICIPAL COURT

CASE NUMBER/CHARGE:

N136668 Larceny / Grand Larceny, Value \$5,000 or more

N136669 Kidnapping

N136670 Criminal Sexual Conduct, 1st Degree

CHECKLIST FOR MAGISTRATE AND MUNICIPAL JUDGES

DIRECTIONS: Magistrate and Municipal Court Judges must use this checklist for ALL GENERAL SESSIONS and for ALL MAGISTRATE AND MUNICIPAL COURT CASES IN WHICH BOND HAS BEEN SET BY A JUDGE. The judge shall attach this checklist to the charging document (arrest warrant or uniform traffic ticket) when the defendant first appears before a judge for a bond hearing or first appearance, and complete the appropriate sections. Defendant must be provided a completed copy of this form.

☒ BAIL PROCEEDING ☐ FIRST APPEARANCE (NON-BAILABLE OFFENSES)

1. Form used at bail proceeding

- ☒ a. Bond Form I (personal recognizance)
☒ b. Bond Form II (surety, cash, ~~parentage~~ 200,000
☐ c. None (Non-Bailable Offense)

2. For cases in which bond was set, defendant was informed:

- ☒ a. Warrant for arrest will be issued for violation of any condition of bail bond order.
☒ b. His right and obligation to be present at trial and that trial will proceed in his absence if he fails to attend.
☒ c. Failure to appear in court as required will result in institution of additional criminal charges. Failure to appear in connection with a felony, or while awaiting sentence after conviction, additional charge has penalty of not more than \$5,000 or imprisonment for not more than 5 years, or both. Failure to appear in connection with a charge for a misdemeanor for which the maximum possible sentence is at least one year, additional charge has penalty of not more than \$1,000 or imprisonment for not more than one year, or both. Failure to appear in court as required on any charge not specified above will result in the issuance of a warrant for defendant's arrest, as well as loss of any posted bond.

3. For cases to be tried in Court of General Sessions, defendant was informed of right to preliminary hearing if requested within ten (10) days:

- ☒ a. Orally
☒ b. In writing [NOTE: Defendant must be informed of right both orally and in writing]

4. Defendant was informed of the right to trial by jury.

5. In all general sessions cases, in all criminal domestic violence cases, and in all magistrate or municipal cases in which a prison sentence is likely to be imposed, defendant was informed of the following:

- ☒ a. Charges against defendant and nature of the charges.
☒ b. Right to counsel and right to court-appointed counsel if financially unable to employ counsel.
☒ c. Defendant was informed orally and provided a copy of this form advising him of his right to obtain court appointed counsel if indigent (must meet federal poverty guidelines) and instructions on how to obtain court appointed counsel. In order to apply for court appointed counsel, defendant is required to appear before

The Oconee County Clerk of Court (Office located at 205 West Main Street, Wallhalla, SC 29691 for indigency screening. Defendant is responsible for a statutory fee of \$40.00 for indigency screening.

6. In all criminal domestic violence cases and any case where defendant is subject to an Order of Protection or Restraining Order, defendant signed and was provided a document explaining that entering the grounds or property of a domestic violence shelter in which the person's household member resides constitutes an additional misdemeanor charge and, if in possession of a dangerous weapon, an additional felony charge.
 7. If the charges that have been brought against you are discharged, dismissed, or nolle prossed or if you are found not guilty, you may have your record expunged

2010-06-25

First Appearance or Bond Hearing Date


 JUDGE'S SIGNATURE

Beverly H. Whitfield
 Oconee County
 Post office Box 678
 Walhalla, SC 29691

FILED OCONEE, SC
 BEVERLY H. WHITFIELD
 CLERK OF COURT
 2014 MAR 5 PM 12 50

2013-CP-37-00729

FILED OCONEE, SC
 BEVERLY H. WHITFIELD
 CLERK OF COURT
 2014 MAR 5 PM 12 51

RE:

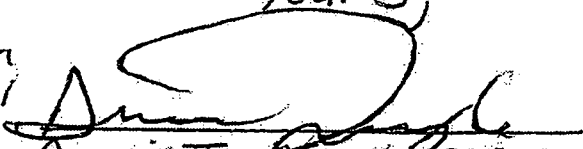
Dear Mrs Whitfield:

Please find enclosed a motion for summary Judgment, memorandum in support of summary Judgment, Affidavit of Dennis Temple and Exhibits 1, 2, 3, 4, 20 and 21. Please file these motions in your court and serve it on the parties. In addition, I request a stamped copy of the enclosed documents for my personal files.

Sincerely,
 Yours,

P.S. I am prohibit from making copies of legal document. In federal court regard this matter now.

February 28, 2014


 Dennis Temple, # 274802
 Lieber Corr. Inst EB-35
 P.O. Box 205
 Ridgville, SC 29472

Copies INTER
 Defendant
 Atty Gen
 Atty Wilson
 COMPTROLLER

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

IN THE COURT OF COMMON PLEAS
10th Judicial Circuit
2013 - CP - 37 - 00729

DENNIS MAURICE TEMPLE

Plaintiff,

vs.

STATE OF SOUTH CAROLINA

Defendant,

MOTION

FOR

Summary

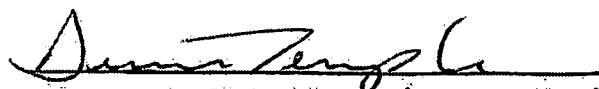
Judgment

FILED OCONEE, SC
DEVERLY H. WHITEFIELD
CLERK OF COURT
2013 MAR 5 PM 12:50

TO : STATE OF SOUTH CAROLINA, Defendant :

PLEASE TAKE NOTICE that the Plaintiff, will move, pursuant to Rule 56 of the South Carolina Rules of Civil Procedure, before the presiding Judge of the Court of Common Pleas at such time as the Court may direct for an order entering Summary Judgment in favor of the plaintiff, thus vacating his convictions and sentences and remanding for a new trial absence of evidence seized from the arrest warrants.

This motion shall be based upon the grounds that the pleadings, affidavit and exhibits show that there is no genuine issue as to any material fact and that the Plaintiff is entitled to a Judgment as a matter of law.


DENNIS M. TEMPLE # 274802
Lieber Corr. Inst EB-35
P.O. Box 205
Ridgeville, SC 29472

February 28, 2014

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

IN THE COURT OF COMMON PLEAS
JUDICIAL CIRCUIT
CLERK OF COURT
2013 - CP - 37 - 00729
2014 MAR 19 AM 11 30

DENNIS MAURICE TEMPLE

Plaintiff,

vs.

STATE OF SOUTH CAROLINA
Defendant,

AFFIDAVIT

OF

DENNIS TEMPLE

PERSONALLY APPEARED BEFORE ME. Dennis Temple,
who being first duly sworn deposes and says:

1. ON May 11, 2010 I was arrested by
Oconee County Sheriff's Department officer
Lieutenant Greg Reed and Lieutenant Terry
Moss for allegedly committing the crimes
of kidnapping, criminal sexual conduct,
1st degree and Grand Larceny. (A copy
of (3) three arrest warrants is attached
hereto and incorporated herein by
reference as Exhibits 2, 3 and 4.

2. Lieutenant Reed stated a few words to me. I told him that I have nothing to say and requested a attorney. my rights were read to me. I was handcuffed and escorted to the Oconee County Detention Center.

3. Once I was inside the Oconee County Detention Center. I was questioned by the booking officer. I was fringer Printed and my picture was taken. I signed a form refusing protective custody. I was told to changed out of my street cloths and to put on a orange uniform.

4. The next day - On May 12, 2010 I was taken before magistrate Judge Blake Norton, which he issued a \$200,000 dollar bond against me to gain my freedom for the charges. (A copy of the Bond Papers dated 5-12-2010 is attached hereto and incorporated herein by reference as Exhibit 21).

5. I was unable to post bail on the \$200,000 dollar bond and remain detained in the Deconee County Detention Center, where I was housed in C-cell general population.

6. On June 7, 2010 I filed a motion for Discovery and Inspection as well as Brady materials and Rule 6 with the Deconee County clerk of Court.

7. On July 2010 I receive from the solicitor Chrissy T. Adam documents regarding my discovery request, which included the (7) seven page sworn written statement by the alleged victim Catherine McGough. (A copy of the Catherine McGough (7) seven page, sworn written statement dated 5-10-2010 is attached hereto and incorporated herein by reference as Exhibit 1.

8. ON December 13-15 2010. I proceed ed Pro se in a Jury Trial at the Oconee County Courthouse. A Jury Found me guilty ON December 15, 2010 ON (2) two counts of criminal Sexual Conduct in the first degree, Kidnapping and Grand Larceny. (A COPY of (4) four sentencing sheets dated December 15, 2010 is attached hereto and incorporated herein by reference as Exhibit 20).

FUTHER THE DEPONENT SAYETH NOT.

Dennis M. Temple
 DENNIS TEMPLE, # 274802
 LIEBER CORR. INST EB-35
 P.O. BOX 205
 RIDGEVILLE, SC 29472

March 14, 2014

Sworn To AND acknowledged before
 me this 14th day of March 2014.
Judith Bryan
 NOTARY PUBLIC for South Carolina
 my commission Expires: May 26, 2020

Voluntary Statement

EXHIBIT 789

1

DATE 5-12-10 PLACE Penic Medical Center TIME STARTED 6:30 A.M.
 I, the undersigned, Catherine [REDACTED] am 17 years of age, my date and place of
 birth being [REDACTED]
 I now live at [REDACTED]
 Before answering any questions or making any statements:

a person who identified himself as a
 duly sworn and advised me and I know and understand that I have the following rights: That I have the right to remain silent and I do not have to answer any questions or make any
 statements at all, that any statement I make can and will be used against me in a court or courts of law for the offense or offenses concerning which the following statement is being made;
 made, that I have the right to consult with a lawyer of my own choice before or at anytime during any questioning or statements I make, that if I cannot afford to hire a lawyer, I may
 request and have a lawyer appointed for me by the proper authority, before or at anytime during any questioning or statements that I make, without cost or expense to me, that I can stop
 answering any questions or making any statements at any time that I choose, and call for the presence of a lawyer to advise me before continuing any more questioning or making any more
 statements at all, whether or not I have already answered some questions or made some statements

I do not want to talk to a lawyer, and I hereby knowingly and purposefully waive my right to remain silent, and my right to have a lawyer present while I make the following statement to the
 following person, knowing that I have the right and privilege to terminate any interview at any time hereafter and have a lawyer present with me before answering any more questions or
 making any more statements if I choose to do so

I declare that the following voluntary statement is made by my own free will without promise of hope or reward, without fear or threat of physical harm, without coercion, force or offer of
 force, without influence or other intimidation by any person or persons whatsoever

On my 9th 2010 at 4:30pm I drove to All Safe Storage
 Facility in Seneca SC in my 2008 Honda Accord (two-door
 and gray). Upon entering the gate I saw the assailant
 walking out of the entrance. He was a black man
 whose age was between the ages 20 and 40 wearing a gray
 sweat-suit. I proceeded to my storage unit, unit 177, parked
 my car, left it unlocked and left the windows rolled down.
 I unlocked my storage unit, lifted the door, left the
 lock on the door, and set my keys on the trunk of the car
 near the trunk. I had unlocked about half of
 my trunk. In there was a square basket containing a wire
 mesh garden decoration (3 ft tall) and a few other miscellaneous
 miscellaneous objects, when the assailant walked towards me
 he was wearing the same clothing and was carrying two types
 of tennis shoes in either hand. I noted that behind him
 was a storage unit (which I later found out was in fact
 mine). All I could see inside was a mattress propped up on one
 of its long skinny side, containing a horizontal banner in the
 center. As he approach he asked what my shoe size was
 he was about eight feet away from me at this point. I replied
 that I needed away from my storage unit. He asked me once
 again about eight feet away from me, if I was interested in
 any of my shoes. They were worn like running shoes and

with three or four copies of this statement

attached each page of this statement contains of _____ (signature) each page of which bears my signature, and corrections, if any, bear my initials and I certify that the facts contained
 are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before it was finished
 I understand that this statement has been read to me and that I was not coerced or prompted when I say in this statement

This statement was completed at 12:25 on the 12th day of May, 20 10

[Signature]
 for Public Use SC
 Commission Expires 3-17-2015
[Signature] (RN)

[Signature]

Signature of person giving voluntary statement

was pink with a dollar bill pattern printed on it. The other was orange. I told him that I was saving up for a trip and that I shouldn't spillage. He asked where I was going. At this point I was a little uncomfortable so I was looking for my keys so that I could finish up. I had forgotten I had placed them on the trunk. I responded "Ireland". He asked if that was where I was from. I responded vaguely with "Sort of". He walked away. I was still looking for my keys when he walked back towards me. I saw that he had gone into the open storage unit. This time he had ^{on} a pair of shoes and a belt slung over his right shoulder. I was quite uncomfortable and flustered at this point. So I may have acted flustered. He asked if I was alright. I responded that I had had a busy morning. I closed the trunk. He asked if I would help him move something. I asked what it was. He hesitated and said a "dresser sort of thing". (There is no dresser anything in his unit). I said that I didn't mean to be rude but that I had to get going. I had walked to the driver's side and was at the door when he pointed out that I had left the storage unit open and unlocked. As much as I wanted to leave I decided to close the unit. I closed the door but it got caught on another square bracket. He was next to me at this point. He helped me move the box. Then as I was standing up he pushed me forward into the unit. At the time there was a chair inside in the middle of the unit that was about 1 to 2 feet wide that fell into. I landed on my stomach but quickly flipped over to my back. I still had my wallet ^{on} in my right hand. My wallet is a black ^{on} union wallet with the keys to my car, my dorm room, and my

I certify I have received a copy of this statement [REDACTED]

I have read each page of this statement consisting of page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 10:05 A .M. on the 10th day of May, 2010.

Dilvie M. [Signature]
Notary Public for S.C.

My Commission Expires 8-7-2018

WITNESS: [Signature]

WITNESS:

[Signature]
Signature of person giving voluntary statement

storage unit attached. I also still had my ^{prescription} glasses on. After I flipped over I started screaming "get the fuck off of me" and "help" as loud as I could while deterring him by kicking. In the process I lost my shoes. I was wearing spandex boat shoes, a pair of navy shorts, black panties, a nude bra, and a white semi-sheer t-shirt. I took my car key and jabbed it into the left side of his neck. At this, he punched me square in the nose so hard that I lost my grip on the keys and it broke my glasses. I continued screaming, but he then strangled me with his hands. I could still breathe but barely. We were both on the ground at this point; he was over top of me. He let loose the strangle and I continued to scream. This time he strangled me so that I could not breathe at all and my vision was darkening. When he let loose this time I didn't scream. He had put a two inch leather belt around my neck, and had led me to the doorway of my storage unit. No one was in sight, it was still broad daylight. It was probably about 4:45pm at this point. He said that when he said so, we were going to run. I misunderstood and thought that he was letting me run away; I quickly realized my misinterpretation when he started pulling me towards the open storage unit. His storage unit was diagonally to the right from my storage unit. I never saw the number due to my lack of glasses. I started screaming again. I somehow ended up on the ground with him strangling me with the belt. This part is blurry because I passed out from him strangling me. I woke up with him straddling over me, saying things that I didn't register. He half dragged me to the storage unit. We stayed close to the ^{top of the} storage units that were located in the middle of the rectangular area. The ground

I certify I have received a copy of this statement [redacted]
 I have read each page of this statement consisting of _____ page(s); each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 10:05 A .M. on the 10th day of May, 2010.

Diane M. Adkins
 Notary Public for S.C.

My Commission Expires 8-7-2018

WITNESS: [Signature]

WITNESS: _____

[redacted]
 Signature of person giving voluntary statement

dirt and gravel. This is where most of my scratches were obtained. The heaviest ^{on} concentration of scratches was on the outside of my left leg. My back and shoulders also sustained heavy scratches. We entered the storage unit. There was only a small aisle to walk through, between the mattress earlier described and the wall, about three feet wide. This storage unit was bigger than mine. It looked to be about a 10' by 10'. There was another mattress propped up behind the first described mattress; they were set up in the same fashion. Between those two mattresses was a mattress and a ~~box~~ ^{on} box spring lying down behind the standing mattresses. On the mattresses were floral print sheets with a magenta comforter of some kind of smooth shiny fabric on top of the sheets. There were maps in the corner, front right corner. A pair of jeans were stuffed on either side of the door, filling small holes. The right side wall was lined with "junk", clothes, a box of hats and masks, a printer, and ^{boxes} ~~boxes~~ of Nike running shoes. He put me on the bed. Pulled a sock out of a black stringed athletic bag, and put it in my mouth. I used my tongue to keep the gag from going too far. He used a white sheet to rip strips to tie me with. He used one of those strips to keep the sock in my mouth by tying it around my head. He tied my arms behind my back and then tied my ankles together. Using another binding, he attached the ties from the ankles and wrists together. He asked me if I had family in Clemson, I said yes, although I do not. He asked ~~where~~ ^{on} if I had money in my car, I said yes. He told me that he was going to go get the money out of the car. He threw the magenta blanket over my head. It then sounded like he closed the gate and locked it. I heard the door to the storage unit go down and I heard the car

I certify I have received a copy of this statement [REDACTED]

I have read each page of this statement consisting of [REDACTED] pages. [REDACTED] bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 10:05 A.M. on the 10th day of May, 2010.

Valerie M. Bohan
Notary Public for S.C.

My Commission Expires 8-7-2018

WITNESS: Chris [Signature]

WITNESS: [Signature]

[REDACTED]
Signature of person giving statement

alarm go off, although I'm not sure in which order. He came back to his storage unit and asked me questions while he fumbled around with something from the pile on the right wall. I couldn't see what it was. I was still on my stomach with my head facing the standing mattresses. He asked how much money was ~~in~~ in my account. I told him three thousand. He muttered repetitively about "rich white girl". He rolled me over and I then saw that he was undressed. He said "I am going to rape you, now." he asked if I would like that I said "no" and he asked for me to repeat it several times. Then he asked if I wanted to die. I again said "no". He told me that I had better stay quiet, then. He said that he'd slit my throat. That it would take anyone too long to get in to help me and that he didn't care about getting caught. His reason he said was, "because, you see this shit hole?" This is where I live, it's all I have". He had cut my bonds with something, I'm not sure what it was, but it seemed to be a small knife. He ~~cut~~ pulled off my shorts, then my underwear. He commented about me "pissing on my clothes". Apparently I had urinated when I had passed out. He pulled up my shirt and bra and inserted himself into my vagina. I stayed quiet. And he said "I'm sorry baby, baby I'm so sorry" and kissed me on my ~~leg~~ left cheek twice. That's the only contact I ever had with his mouth. After a minute or so, he stood up, cursing himself for what he had done. I assume that means ~~he was~~ ^{he was} ~~worming~~ ^{worming} inside of me, because he then proceeded to wash me out. He took a blue cleaning rag and dunked it into a liquid. He rubbed the rag around my crotch and inserted it. He used his finger and then picked up the power aid bottle and filled it with the same liquid that the rag was dipped in. He put the power aid a centimeter or so into me and squeezed the liquid out into me. He dressed. I urinated

I certify I have received a copy of this statement.
 I have read each page of this statement consisting of _____ page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 10:05 A.M. on the 16th day of May, 2016

Diane M. Boman

Notary Public for S.C.

My Commission Expires 8-7-2018

WITNESS: 

WITNESS: _____



Signature of person giving voluntary statement

on the already soaked bed. He tied me up, asked what my bin number was. I still was groggy, but I used my hand to tell him the four digits. He asked which card and which bank. I told him the visa and BSET. He finished tying me. This time, instead of tying my hands and feet to each other, he tied a binding around my neck and to my legs, so that I could drop neither my head or legs. This is where I sustained most of my neck injuries I believe. I struggled quite a bit because the ~~rope~~ ^{rope} was painful. He again threw the blanket over me, but before that he had used electrical tape to tie my gag this time. He said that he was leaving to go to the store down the street. About 30 minutes he returned, with the car parked outside of the unit playing 93.1 loudly. He came back in quickly and zipped something up. I was still not able to see what was going on. I inhaled and he came over and pulled the tape gag down some so that I could speak. I said that I couldn't breathe and he said that I could breathe fine ⁱⁿ. He pushed the gag back in and piled more blankets over my head. He left the unit, closed and locked the door. I could hear the car move. I found that I could get one arm loose, but stayed in the other bindings in case he got back. After about 2 hours, I saw that it was dark outside (I had rolled the blankets off of my head earlier). I untied all of my hands and used a head lamp flashlight to look around the unit. I tried the door and it was indeed locked. I couldn't find anything to open it with. I looked around for any weapons. I found holes in all of the mattresses. Inside the hole in the box spring, I stuffed the belt that had still been around my neck, a broken coat hanger, and the electrical tape that he had used to tie my second gag with. I saw the poweraid bottle floating in a fan bucket that was knee height and about a foot in diameter. It smelled like some kind of cleaning

I certify I have received a copy of this statement.

I have read each page of this statement consisting of _____ page(s), each page of which bears my signature, and corrections, if any, bear my initials; and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 11:05 A M. on the 10th day of May, 2010.

William M. Balthus

Notary Public for S.C.

My Commission Expires 8-7-2013

WITNESS: [Signature]

WITNESS: _____

Signature of person giving statement

agent and next to the bucket was a lysol bottle and a sprite bottle. Inside the sprite bottle was more cleaning agent. I heard him walking back so I returned to the bed. He seemed in a better mood. I asked him to please let me go, that I wouldn't cause trouble. He said okay, but that he had to go get the car first. He gagged me with banding from the chest and a sock. He said that he'd be back. ~~more banding~~ While he was speaking with me, he packed a black duffle bag with Nike shoe boxes, but didn't finish packing and left it open. When he had walked in he had some sort of canvas bag or clothing item. He kept checking the pockets of that item and on the mattress and other boxes around the room. He never found it and left in a hurry. I got up and looked around after he was gone for an hour or so. I walked over to ~~the~~ black duffle bag and saw a cell phone in a container that had been covered before. I turned it on and it worked. I dialed 911. A man answered. I described who I was and where I was. I spoke with him until I heard sirens and voices calling for me. I took the boards off of my feet and banged on the door. The officers busted the door down. And I left the unit with the cell phone (a red small flip phone), and some of the remaining boards.

I certify I have received a copy of this statement. ~~_____~~
 I have read each page of this statement consisting of _____ page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 10:05 A.M. on the 10th day of May, 2010.

Debra M. Zoltan
 Notary Public for S.C.

My Commission Expires 8-7-2018

WITNESS: CBS CBS

WITNESS: _____

~~_____~~

Signature of person giving voluntary statement

ARREST WARRANT

N-136670

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

Oconee

THE STATE

1012105

against

Dennis Maurice Temple

Address:

Seneca, SC 29678-

Phone: SSN: 250-31-9730

Sex: M Race: B Height: 5 11 Weight: 198

DL State: SC DL #: [REDACTED]

DOB: 11/12/1972 Agency ORI #: SC0370000

Prosecuting Agency: Oconee County Sheriff

Prosecuting Officer: Scott Arnold - 1011

Offense: Sex / Criminal sexual conduct - First degree

Offense Code: 0160

Code/Ordinance Sec: 16-03-0652

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant Dennis Templeon 5-11-10

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Walhalla Magistrate
208 Booker Drive
Walhalla, SC 29691

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

Personally appeared before me the affiant Scott Arnoldbeing duly sworn deposes and says that defendant Dennis Maurice Templedid within this county and state on or about 05/09/2010State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Oconee

in the following particulars:

DESCRIPTION OF OFFENSE Sex / Criminal sexual conduct - First degree

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:THE DEFENDANT DID, ON 05-09-10, WHILE COMMITTING THE CRIME OF KIDNAPPING, ENGAGE IN SEXUAL
BATTERY UPON THE VICTIM, CATHERINE MCGOUGH, BY PERFORMING SEXUAL INTERCOURSE ON THE VICTIM
AGAINST HER WILL. THE DEFENDANT DID, WHILE AT UNIT 193, ALL SAFE STORAGE, 600 SHILOH RD., SENECA
SC IN OCONEE COUNTY, FORCE SEXUAL INTERCOURSE WITH THE VICTIM. VICTIM WAS TRANSPORTED TO
OMC FOR EXAMINATIONS. INVESTIGATED BY OCSO. A WRITTEN REPORT, PHOTOGRAPHS AND STATEMENTS
ARE ON FILE. CASE #1012105.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

Affiant's Address 300 S Church StreetWalhalla, SC 29691-Affiant's Telephone (864)638-4111

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe

on or about 5/9/2010 defendant Dennis Maurice Temple

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Oconee

) as set forth below:

DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct - First degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable

Sworn to and subscribed before me

on 05/10/2010

Signature of Issuing Judge

Blake A. Norton

Judge Code: 5033Judge's Address 208 Booker DriveWalhalla, SC 29691-2278Judge's Telephone (864)638-4125Issuing Court: ☒ Magistrate ☐ Municipal

ORIGINAL

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ORIGINAL

Form Approved 1-79

EXHIBIT

2

96

N-136668

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

THE STATE

1012105

against

Dennis Maurice Temple

Address:

Seneca, SC 29678-

Phone: SSN: [REDACTED]

Sex: M Race: B Height: 5 11 Weight: 198

DL State: SC DL #: 004434239

DOB: 11/12/1972 Agency ORI #: SC0370000

Prosecuting Agency: Oconee County Sheriff

Prosecuting Officer: Scott Arnold - 1011

Offense: Larceny / Grand Larceny, value \$5,000 or more

Offense Code: 0479

Code/Ordinance Sec: 16-13-0030(B)(2)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be

dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant Dennis Templeon 5-11-10Kevin Davis 5790

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Walhalla Magistrate

208 Booker Drive

Walhalla, SC 29691

ORIGINAL

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ORIGINAL

ORIGINAL

☒ County/ ☐ Municipality of

Oconee

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
4-21-2003

EXHIBIT

3

Personally appeared before me the affiant Scott Arnoldbeing duly sworn deposes and says that defendant Dennis Maurice Templedid within this county and state on or about 05/09/2010State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Oconee

in the following particulars:

DESCRIPTION OF OFFENSE Larceny / Grand Larceny, value \$5,000 or more

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

THE DEFENDANT DID, ON 05-09-10, WITH THE INTENT TO PERMANENTLY DEPRIVE THE OWNER, TAKE AND CARRY AWAY A 2008 HONDA ACCORD, WEST VIRGINIA TAG #NL3593, VALUED AT MORE THAN \$5000.00, WHICH BELONGED TO CATHERINE MCGOUGH. THIS INCIDENT OCCURRED AT 600 SHILOH RD, SENEGA, SC, IN OCONEE COUNTY AND WAS INVESTIGATED BY OCSO. A WRITTEN REPORT IS ON FILE. CASE #1012105

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

Affiant's Address 300 S Church StreetWalhalla, SC 29691-Affiant's Telephone (864)638-4111

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 5/9/2010 defendant Dennis Maurice Temple

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Oconee) as set forth below:DESCRIPTION OF OFFENSE: Larceny / Grand Larceny, value \$5,000 or more

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me

on 05/10/2010

(L.S.)

Signature of Issuing Judge

Blake A. Norton

Judge Code: 5033Judge's Address 208 Booker DriveWalhalla, SC 29691-2278Judge's Telephone (864)638-4125Issuing Court: ☒ Magistrate ☐ Municipal797
ORIGINAL

ARREST WARRANT

N-136669

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

THE STATE

1012105

against

Dennis Maurice Temple

Address:

Seneca, SC 29678-

SSN: 250-31-9730

Sex: M Race: B Height: 5 11 Weight: 198

State: SC DL #: 004434239

DOB: [REDACTED] Agency ORI #: SC0370000

Prosecuting Agency: Oconee County Sheriff

Prosecuting Officer: Scott Arnold - 1011

Offense: Kidnapping / Kidnapping

Fense Code: 0095

Ordinance Sec: 16-03-0910

This warrant is CERTIFIED FOR SERVICE in the

☒ County/ ☐ Municipality of

The accused

to be arrested and brought before me to be
satisfied with according to the law.

(L.S.)

Signature of Judge

to:

RETURN

copy of this arrest warrant was delivered to

defendant

Dennis Temple
5-11-10Kevin Davis 5790
Signature of Constable/Law Enforcement Officer

TURN WARRANT TO:

Walhalla Magistrate
208 Booker Drive
Walhalla, SC 29691

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

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ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

AFFIDAVIT

ORIGINAL

S.C. Attorney General
April 21, 2003
SCCA 51A

EXHIBIT

4

Personally appeared before me the affiant Scott Arnold

being duly sworn deposes and says that defendant Dennis Maurice Temple

did within this county and state on or about 05/09/2010

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Oconee

in the following particulars:

DESCRIPTION OF OFFENSE Kidnapping / Kidnapping

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

THE DEFENDANT DID, ON 05-09-10, UNLAWFULLY AND WITHOUT AUTHORITY TO DO SO, ABDUCT, CONFINED AND INVEIGLE THE VICTIM, CATHERINE MCGOUGH, AGAINST HER WILL WHILE ACCOMPANIED BY AGGRAVATED CIRCUMSTANCES. THIS DEFENDANT DID FORCE THE VICTIM FROM HER STORAGE UNIT, UNIT 177, TO HIS PERSONAL STORAGE UNIT, UNIT 193, WHERE HE COMMITTED THE CRIME OF CRIMINAL SEXUAL CONDUCT AGAINST THE VICTIM. THE VICTIM WAS TIED UP AND LEFT INSIDE THE DEFENDANT'S STORAGE UNIT. THIS INCIDENT OCCURRED AT 600 SHILOH RD, SENECA, SC IN OCONEE COUNTY AND WAS INVESTIGATED BY OCSO. A WRITTEN REPORT, PHOTOGRAPHS AND STATEMENTS ARE ON FILE. CASE #1012105.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

Affiant's Address 300 S Church Street

Walhalla, SC 29691-

Affiant's Telephone (864)638-4111

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 5/9/2010 defendant Dennis Maurice Temple

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Oconee) as set forth below.

DESCRIPTION OF OFFENSE: Kidnapping / Kidnapping

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable
Sworn to and subscribed before me

on 05/10/2010

(L.S.)
Signature of Issuing Judge
Blake A. Norton

Judge Code: 5033

Judge's Address 208 Booker Drive

Walhalla, SC 29691-2278

Judge's Telephone (864)638-4125

Issuing Court: ☒ Magistrate ☐ Municipal☐ Circuit

798

STATE OF SOUTH CAROLINA
COUNTY OF Oconee
STATE

IN THE COURT OF GENERAL SESSIONS

799

INDICTMENT/CASE#:

2010GS3700887

VS.
Dennis Maurice Temple

AW#:

2010GS3700887

Date of Offense:

5/9/2010

S.C. Code §:

16-03-0652

CDR Code #:

0160

EXHIBIT

20

SENTENCE

AKA:
Race: B Sex: M Age: 38
DOB: 11-12-1972 SS#: [REDACTED]
Address: [REDACTED] Ave

City, State, Zip: Honea Path, SC 29654

DL# [REDACTED] SID# SC01934217

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADS

TO: Sex / Criminal sexual conduct - First degree

In violation of § 16-03-0652 of the S.C. Code of Laws, bearing CDR Code # 0160

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

The charge is: ☒ As indicted, ☐ Lesser Included Offense,

☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation,

☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature] 70224
SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,
for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are
incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: 12/15/10 sentence

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
Department of Corrections. 5/9/10

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

_____ days/hours Public Service Employment

Payment Terms:

Obtain GED ☐

☐ Set by SCDPPPS

Attend Voc. Rehab. Or Job Corp. _____

Recipient:

*Fine:	\$	
§14-1-206 (Assessments 107.5%)	\$	
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ <u>100.00</u>
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150	\$
§0-21-114 (BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ <u>5.00</u>
§44-53-450(C) (Conditional Discharge)	\$350	\$
% to County (if paid in installments)	\$	\$ <u>3.90</u>
TOTAL	\$	\$ <u>133.90</u>

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning

\$ _____ Paid to Public Defender Fund

Other: _____

☐ Conditional Discharge, §44-53-450(C) requires

\$350 be paid to the Clerk prior to case disposition

☐ Appointed PD or appointed other counsel,

\$47.12 requires \$500 be paid to Clerk

during probation.

Clerk of Court/Deputy Clerk

Presiding Judge *[Signature]*

Judge Code: 131

Court Reporter:

Sentence Date 12/15/2010

SCCA217 (06/2010)

DEC 30 2010

(Attachment L)

800
STATE OF SOUTH CAROLINA
COUNTY OF Oconee
STATE

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2010GS3700886

VS.
Mr. Dennis Maurice Temple

AW#: N136668

AKA:
Race: B Sex: M Age: 38

Date of Offense: 5/9/2010

DOB: 11-12-1972 SS#: [REDACTED]

S.C. Code §: 16-13-0030(B)(2)

CDR Code #: 0479

Address:

City, State, Zip:

DL# [REDACTED] SID# [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADS

TO: Larceny / Grand Larceny, value \$5,000 or more

In violation of § 16-13-0030(B)(2) of the S.C. Code of Laws, bearing CDR Code # 0479

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTES:

[Signature] 70224
Solicitor SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections ☐ County Detention Center,
for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are
incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: 12/15/10 sentence

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
Department of Corrections. 5/10/10

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____

☐ Set by SCDPPPS

Obtain GED ☐

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning

\$ _____ Paid to Public Defender Fund

Other: _____

☐ Conditional Discharge, §44-53-450(C) requires
\$350 be paid to the Clerk prior to case disposition

☐ Appointed PD or appointed other counsel,
\$47.12 requires \$500 be paid to Clerk
during probation.

Recipient:

*Fine:		\$
§14-1-206 (Assessments 107.5%)		\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ 100.00
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$
§50-21-114 (BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
§44-53-450(C) (Conditional Discharge)	\$350	\$
3% to County (if paid in installments)		\$ 3.90
TOTAL		\$ 133.90

Presiding Judge *[Signature]*

Clerk of Court/Deputy Clerk *[Signature]*

Court Reporter:
SCCA217 (06/2010)

A TRUE COPY
DEC 30 2010
CLERK OF COURT - OCONEE COUNTY

Judge Code: 131

Sentence Date: 12/15/2010

STATE OF SOUTH CAROLINA

COUNTY OF Oconee

STATE

VS.

Mr. Dennis Maurice Temple

AKA:

Race:

B

Sex:

M

Age:

38

DOB:

11-12-1972

SS#:

[REDACTED]

Address:

City, State, Zip:

DL#

SID#

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Kidnapping / Kidnapping

In violation of § 16-03-0910

of the S.C. Code of Laws, bearing CDR Code # 0095

☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45

The charge is:

☒

As indicted,

☐

Lesser Included Offense,

☐

Defendant Waives Presentment to Grand Jury,

(def.'s initials)

The plea is:

☐

Without Negotiations or Recommendation,

☐

Negotiated Sentence,

☐

Recommendation by the State.

ATTES:

Blinnons 70224

Solicitor

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections ☐ County Detention Center,for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for

_____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☒ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning

\$ _____ Paid to Public Defender Fund

Other: _____

☐ Conditional Discharge, §44-53-450(C) requires \$350 be paid to the Clerk prior to case disposition☐ Appointed PD or appointed other counsel, §47.12 requires \$500 be paid to Clerk during probation.

Recipient:

*Fine: \$ _____

§14-1-206 (Assessments 107.5%) \$ _____

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

§56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00

§44-53-450(C) (Conditional Discharge) \$350 \$ _____

3% to County (if paid in installments) \$ 3.90

TOTAL \$ 133.90

Clerk of Court/Deputy Clerk

Court Reporter:

SCCA/217 (06/2010)

Presiding Judge

Judge Code: 131

Sentence Date

DEC 30 2010

CLERK OF COURT - OCONEE COUNTY

IN THE COURT OF GENERAL SESSIONS

801

INDICTMENT/CASE#

2010GS3700868

A/W#:

N136669

Date of Offense:

5/9/2010

S.C. Code §:

16-03-0910

CDR Code #:

0095

SENTENCE SHEET

802
STATE OF SOUTH CAROLINA
COUNTY OF Oconee
STATE

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2010GS3700889

VS.
Mr. Dennis Maurice Temple

AW#: N136670

Date of Offense: 5/9/2010

S.C. Code §: 16-03-0652

CDR Code #: 0160

AKA:
Race: B Sex: M Age: 38
DOB: 11-12-1972 SS#: 250-31-9730

Address:
City, State, Zip:

DL# SID#

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
TO: Sex / Criminal sexual conduct - First degree

☒ CONVICTED OF or ☐ PLEADS

In violation of § 16-03-0652 of the S.C. Code of Laws, bearing CDR Code # 0160

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

The charge is: ☒ As indicted, ☐ Lesser Included Offense,

☐ Defendant Waives Presentment to Grand Jury.

(def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation,

☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature] 70224
Solicitor SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,
for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are
incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: 50 12/15/10

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
Department of Corrections.

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms:

Obtain GED ☐

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning

\$ _____ Paid to Public Defender Fund

Other: _____

Recipient:

*Fine:	\$	
\$14-1-206 (Assessments 107.5%)	\$	
\$14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ 100.00
\$14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
\$56-5-2995 (DUI Assessment)	\$12	\$
\$56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
\$14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
\$14-1-213 (Drug Court Surcharge)	\$150	\$
\$50-21-114 (BUI Breath Test Fee)	\$50	\$
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
\$44-53-450(C) (Conditional Discharge)	\$350	\$
3% to County (if paid in installments)	\$	\$ 3.90
TOTAL	\$	\$ 133.90

☐ Conditional Discharge, §44-53-450(C) requires
\$350 be paid to the Clerk prior to case disposition

☐ Appointed PD or appointed other counsel,
\$47.12 requires \$500 be paid to Clerk
during probation.

Presiding Judge *[Signature]*

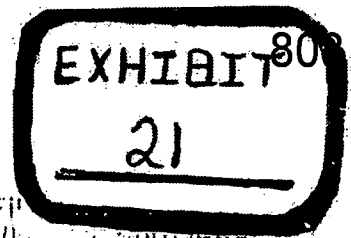
Judge Code: 131

Sentence Date 12/15/2010

Clerk of Court/Deputy Clerk *[Signature]*

Court Reporter:
SCCA217 (08/2010)

DEC 30 2010



SPECIAL CONDITIONS
GENERAL SESSIONS BONDS

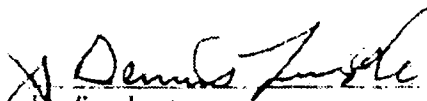
FP
EVL
CL
COURT

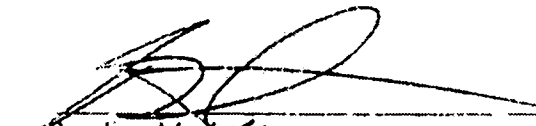
2010 MAY 11 P 3:33

* DEFENDANTS WHO FAIL TO COMPLY WITH SPECIAL CONDITIONS *

*** WILL HAVE A BENCH WARRANT ISSUED FOR THEIR ARREST ***

1. All General Sessions Defendants that do not obtain private counsel shall make application for a Public Defender at the Clerk of Court Office on the 1st floor of the Oconee County Courthouse by paying a \$40.00 (forty dollar) non-refundable fee within 48 hours of release from jail.
2. Defendant shall within 24 hours of paying application fee at Clerk of Court's office contact Public Defender's office at 864.638.3133 and schedule an appointment for screening.
3. Incarcerated defendants will be contacted by the Public Defender's office within 3 working days of their arrest. These defendants will be represented by the Public Defender unless and until notified in writing that private counsel has been retained.
4. Defendants that obtain private counsel shall notify the Solicitor's Office by furnishing a letter of representation issued by their attorney within 96 hours of their release from jail.
5. Defendant MUST appear on the initial appearance date at the Solicitor's office. Failure to appear unless excused by Solicitor may result in revocation of your bond and a bench warrant issued.
6. Defendant is required to immediately notify the Solicitor's office of any changes in address, phone numbers, etc. or a bench warrant may be issued for your arrest.
7. Defendants must comply with all other conditions required by bonding magistrate.


Defendant


Bonding Magistrate

6-25-10
Initial Appearance Date

Redate 5-12-10

Attachment 1
Sept 2008

White Copy - Clerk of Court

Yellow Copy - Solicitor's Office

Pink Copy - Defendant

MAY 11 2010 100

STATE OF SOUTH CAROLINA

COUNTY/CITY OF OCONEE

Defendant is Maurice Temple
Name of Defendant

DEVELOPMENTAL DISABILITY COURT

2010 MAY 17 P 3:33

CHECKLIST

TRIAL COURT:

- ☒ GENERAL SESSIONS COURT
☐ MAGISTRATE COURT
☐ MUNICIPAL COURT

CASE NUMBER/CHARGE:

N136668 Larceny / Grand Larceny, value \$5,000 or more

N136669 Kidnapping

N136670 Criminal Sexual Conduct, 1st Degree

CHECKLIST FOR MAGISTRATE AND MUNICIPAL JUDGES

DIRECTIONS: Magistrate and Municipal Court Judges must use this checklist for ALL GENERAL SESSIONS and for ALL MAGISTRATE AND MUNICIPAL COURT CASES IN WHICH BOND HAS BEEN SET BY A JUDGE. The judge shall attach this checklist to the charging document (arrest warrant or uniform traffic ticket) when the defendant first appears before a judge for a bond hearing or first appearance, and complete the appropriate sections. Defendant must be provided a completed copy of this form.

☒ BAIL PROCEEDING / ☐ FIRST APPEARANCE (NON-BAILABLE OFFENSES)

1. Form used at bail proceeding

- a. Bond Form I (personal recognizance)
b. Bond Form II (surety, cash, percentage) 200,000
c. None (Non-Bailable Offense)

2. For cases in which bond was set, defendant was informed:

- a. Warrant for arrest will be issued for violation of any condition of bail bond order.
b. His right and obligation to be present at trial and that trial will proceed in his absence if he fails to attend.
c. Failure to appear in court as required will result in institution of additional criminal charges. Failure to appear in connection with a felony, or while awaiting sentence after conviction, additional charge has penalty of not more than \$5,000 or imprisonment for not more than 5 years, or both. Failure to appear in connection with a charge for a misdemeanor for which the maximum possible sentence is at least one year, additional charge has penalty of not more than \$1,000 or imprisonment for not more than one year, or both. Failure to appear in court as required on any charge not specified above will result in the issuance of a warrant for defendant's arrest, as well as loss of any posted bond.

3. For cases to be tried in Court of General Sessions, defendant was informed of right to preliminary hearing if requested within ten (10) days:

- a. Orally
b. In writing [NOTE: Defendant must be informed of right both orally and in writing]

4. Defendant was informed of the right to trial by jury.

5. In all general sessions cases, in all criminal domestic violence cases, and in all magistrate or municipal cases in which a prison sentence is likely to be imposed, defendant was informed of the following:

- a. Charges against defendant and nature of the charges.
b. Right to counsel and right to court-appointed counsel if financially unable to employ counsel.
c. Defendant was informed orally and provided a copy of this form advising him of his right to obtain court appointed counsel if indigent (must meet federal poverty guidelines) and instructions on how to obtain court appointed counsel. In order to apply for court appointed counsel, defendant is required to appear before:

The Oconee County Clerk of Court Office located at 205 West Main Street, Wallhalla, SC 29691
for indigency screening. Defendant is responsible for a statutory fee of \$40.00 for indigency screening.

6. In all criminal domestic violence cases and any case where defendant is subject to an Order of Protection or Restraining Order, defendant signed and was provided a document explaining that entering the grounds or property of a domestic violence shelter in which the person's household member resides constitutes an additional misdemeanor charge and, if in possession of a dangerous weapon, an additional felony charge.
7. If the charges that have been brought against you are discharged, dismissed, or nolle prossed or if you are found not guilty, you may have your record expunged

2010-06-25

First Appearance or Bond Hearing Date

JUDGE'S SIGNATURE

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

IN THE COURT OF COMMON PLEAS
10th Judicial Circuit
2013 - CP - 37 - 00729

DENNIS MAURICE TEMPLE

Plaintiff,

vs.

STATE OF SOUTH CAROLINA
Defendant.

NOTICE OF MOTION

AND

MOTION FOR DEFAULT

JUDGMENT

2014 MAY 12 AM 11 43

FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT

TO: STATE OF SOUTH CAROLINA, DEFENDANT:

YOU WILL PLEASE TAKE NOTICE THAT THE undersigned Plaintiff, DENNIS MAURICE TEMPLE, will move, pursuant to Rule 55 of the South Carolina Rules of Civil Procedure, before the presiding Judge of the Court of Common Pleas at such time as the Court may direct for an order entering a default Judgment in favor of the Plaintiff and granting requested relief, thus vacating his convictions and sentences and remanding for a NEW trial absence of evidence seized from the arrest warrants.



This motion shall be based upon the grounds that the Pleadings and affidavit show that the defendant has failed to respond to the Plaintiff Post-conviction Relief Application and the motion for Summary Judgment, which the record will show that Plaintiff has been Prejudice. As a result, this honorable Court should grant the relief requested because the Plaintiff is entitled to a judgment as a matter of law.

Dennis M. Temple
DENNIS M. TEMPLE, # 274802
Lieber Corr Inst EB-35
P.O. Box 205
Ridgeville, SC 29472

Ridgeville, South Carolina
May 8th 2014.

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

IN THE COURT OF COMMON PLEAS
10th Judicial Circuit
2013-CP-37-00729

DENNIS MAURICE TEMPLE

Plaintiff,

VS.

STATE OF SOUTH CAROLINA
Defendant,

MEMORANDUM

IN

SUPPORT

OF

DEFAULT

JUDGMENT

FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT
2014 MAY 12 PM 11 43

STATEMENT OF THE CASE

Plaintiff is a state prisoner at Lieber Correctional Institution of the South Carolina Department of Corrections. After his direct appeal was finalized. He filed a Post-Conviction Relief Application at the Oconee County Courthouse. The Defendant has not filed a motion or answer to the PCR Application. As a result, Plaintiff move the court with a motion for Summary Judgment and defendant have not respond. Plaintiff now seek a order from the -



court for relief by filing a motion for default Judgment.

STATEMENT OF THE FACTS

1. On May 11, 2010 Plaintiff was arrested in Oconee County by the Oconee County Sheriff's Department officer Lieutenant Greg Reed and Lieutenant Jerry Moss and charged with kidnapping, criminal sexual conduct in the first degree and Grand Larceny.

2. On May 12, 2010 Plaintiff was taken before magistrate Judge Blake Norton who issued a \$200,000 dollar Bond against Plaintiff to gain his freedom for the charges. Plaintiff was unable to post the bail and remained detain at the Oconee County Detention Center.

3. On December 13-15 2010 Plaintiff proceeded pro se in a Jury Trial at the Oconee County Courthouse. The Jury found Plaintiff guilty on December 15, 2010 on (2) two counts of criminal sexual conduct in the first degree, kidnapping and Grand Larceny. The presiding Judge Cordell Maddox Jr. sentenced him to 100 years in Prison at the (SCDC) South Carolina Department of Corrections.

4. On December 16, 2010 Plaintiff was transported to Kirkland Correctional Institution (R&E) Reception and Evaluation Center of the South Carolina Department of Corrections to serve his 100 year Prison sentence.

5. On December 2010 Plaintiff timely filed a Notice of appeal and was appointed a appellate Counsel from the South Carolina Commission on Indigent Defense.

6. ON September 2013 the South Carolina Court of Appeals dismissed Plaintiff's appeal Pursuant to (SCACR) Rule 215.

7. ON October 15, 2013 Plaintiff filed a Post-Conviction Relief Application (PCR) along with attachments Page 8-26, exhibits 1-23 including Record on appeal Vol. I and Vol. II or Exhibit 18 with the Oconee County, Clerk of Court, and served them on the attorney General, Alan Wilson at P.O. Box 11549, Columbia, South Carolina 29211.

8. ON October 31, 2013 Plaintiff filed a motion to Amend PCR Application and served it on the Attorney General, Alan Wilson at P.O. Box 11549, Columbia South Carolina 29211.

9. IN addition, ON October 31, 2013 the Court appointed Hugh W. Welborn as second counsel on Plaintiff PCR case.

10. Then on January 14, 2014 plaintiff filed a motion to Amend and supplement his PCR application with the Clerk of Court and served them on Hugh W. Welborn at P.O. Box 173, Anderson, SC 29622 and on the Attorney General, Alan Wilson at P.O. Box 11549, Columbia, SC 29211.

11. On March 19, 2014 Plaintiff filed a motion for Summary Judgment, memorandum IN support of Summary Judgment, Affidavit of Dennis Temple and Exhibits 1, 2, 3, 4, 20 & 21 with the Oconee County, Clerk of Court and on the Attorney General, Alan Wilson at P.O. Box 11549, Columbia, SC 29211.

12. The Defendant has been given over 30 days to respond to Plaintiff's motion for Summary Judgment and has again failed to respond.

LEGAL DISCUSSION

13. S.C. code of laws § 17-27-40.

Commencement of Proceedings by filing of application.

A proceeding is commenced by filing an application verified by the applicant with the clerk of the court in which the conviction took place. Facts within the personal knowledge of the applicant and the authenticity of all documents and exhibits included in or attached to the application must be sworn to affirmatively as true and correct. The clerk shall docket the application upon its receipt and promptly bring it to the court and deliver a copy to the solicitor of the circuit in which the applicant was convicted and a copy to the Attorney General.

14. S.C. code of laws § 17-27-50.

Form and contents of application.

The application shall identify the proceedings in which the applicant was convicted, give the date of the entry of the Judgment and sentence was convicted, give the date of the entry of the Judgment and sentence complained of, specifically set forth the grounds upon which the application is based, and clearly state the relief desired. Facts within the personal knowledge of the applicant shall be set forth separately from other allegations of facts and shall be verified as provided in § 17-27-40. Affidavits, records or other evidence supporting its allegations shall be attached to the application or the application or the application shall recite why they are not attached. The application shall -

identify all previous Proceedings, together with the grounds therein asserted, taken by the applicant to secure relief from his conviction or sentence. Argument, citations and discussion of authorities are unnecessary. The application shall be made on/such form as prescribed by the supreme court, see, Davis v. State (S.C. 1986) 288 S.C. 290, 342 S.E.2d 60.

15. S.C. code of laws § 17-27-70.

Court Procedure on receipt of Application.

(a) Within thirty days after the docketing of the application, or within any further time the court may fix, the state shall respond by answer or by motion which may be supported by affidavits. At any time prior to entry of Judgment the court may, when appropriate, issue orders for amendment of the application or any pleading or motion, or for -

extending the time of the filing of any pleading. In considering the application, the court shall take account of substance, regardless of defects of form. If the application is not accompanied by the record of the proceeding challenged therein the respondent shall file with its answer the record or portions thereof, that are material to the questions raised in the application.

(b) When a court is satisfied, on the basis of the application, the answer or motion, and the record, that the applicant is not entitled to post-conviction relief and no purpose would be served by any further proceedings, it may indicate to the parties its intention to dismiss the application and its reasons for so doing. The applicant shall be given opportunity to reply to the proposed dismissal. In light of the reply, or on default thereof, the court may order the application or direct that

the proceeding otherwise continue. Disposition on the pleadings and record is not proper if there exists a material fact and the moving party is entitled to Judgment as a matter of law.

16. Rule 56. Summary Judgment

(a) For claimant. A party seeking to recover upon a claim, counterclaim, or cross-claim or to obtain a declaratory Judgment may, at any time after the expiration of 30 days from the commencement of the action or after service of a motion for Summary Judgment by the adverse party, move with or without supporting affidavits for a summary Judgment in his favor upon all or any part thereof.

Purpose:

The purpose of summary Judgment is to expedite the disposition of cases which

do not require the services of a fact finder.
Singleton v. Sherer (S.C. App. 2008) 377 S.C.
 185, 659 S.E. 2d 196; Austin v. Beaufort County
Sheriff's Office (S.C. 2008) 377 S.C. 31, 659
 S.E. 2d 122; rehearing denied.

To resist motion for Summary Judgment non-moving party must come forward with specific facts showing genuine issues necessitating trial.
 Rules Civ. Pro. Rule 56(c). Nations Bank v. Scott Farm (S.C. App. 1995) 320 S.C. 299, 465 S.E. 2d 98; Strickland v. Madden (S.C. App. 1994) 323 S.C. 63, 448 S.E. 2d 581. rehearing denied.

17. Rule 55. DEFAULT

(a) Entry. When a Party against whom a Judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules and that fact is made to appear by affidavit or otherwise, the clerk shall enter his default upon the calendar (file book).

Where record fails to show prejudice to appellant seeking post-conviction relief, from delay by respondent state's failure to file answer to petition within extended time granted by lower court, court was not in error in failing to grant relief requested. KNEECE V. STATE (S.C. 1977) 269 S.C. 177, 236 S.E. 2d 746.

Entry of default - in general:

While a clerk may make an entry of default, a judge is required to enter a default Judgment. Wetzel V. Woodside Development Ltd. Partnership (S.C. 2005) 364 S.C. 589, 615 S.E. 2d 437; Entry of default is a ministerial act which a clerk is required to perform once default is made to appear by the affidavit of the moving party. Stark Truss Co. Inc. V. Superior Const. Corp. (S.C. App. 2004) 360 S.C. 503, 602 S.E. 2d 99.

Dennis M. Temple
DENNIS M. TEMPLE, # 274802
Lieber Corr. Inst EB-35
P.O. Box 205
Ridgeville, SC 29472

May 8, 2014

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

IN THE COURT OF COMMON PLEAS
10th Judicial Circuit
2013 - CP - 37 - 00729

DENNIS MAURICE TEMPLE

Plaintiff,

VS.

STATE OF SOUTH CAROLINA
Defendant,

AFFIDAVIT

OF

DENNIS TEMPLE

FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT
2011 APR 12 PM 11 AM

PERSONALLY APPEARED BEFORE ME, DENNIS TEMPLE,
who being first duly sworn deposes and says:

1. ON May 11, 2010 I was arrested
in Oconee County by the Oconee County
Sheriff's Department officer Lieutenant
Greg Reed and Lieutenant Jerry Moss and
charged with Kidnapping, Criminal Sexual
Conduct in the first degree and Grand
Larceny.

2. ON May 12, 2010 I was taken
before magistrate Judge Blake Norton who
issued a \$ 200,000 dollar Bond against
me to gain my freedom for the charges.

I was unable to post the bail and remained detain at the Oconee County Detention Center.

3. On December 13-15 2010 I proceeded Pro se in a Jury Trial at the Oconee County Courthouse. The Jury found me guilty on December 15, 2010 on (2) two counts of criminal sexual conduct in the first degree, kidnapping and Grand Larceny. The Presiding Judge Cordell Maddox Jr. sentenced me to 100 years in prison at the (SCDC) South Carolina Department of Corrections.

4. On December 16, 2010 I was transported to Kirkland Correctional Institution (R&E) Reception and Evaluation Center of the South Carolina Department of Corrections to serve the 100 year sentence.

5. On December 2010 I timely filed a notice of appeal and was appointed a appellate counsel from

the South Carolina Commission on Indigent defense.

6. On September 2013 the South Carolina Court of Appeals dismissed my appeal pursuant to (SCACR) Rule 215.

7. On October 15, 2013 I filed a Post-conviction Relief Application (PCR) along with attachments Page 8-26, exhibits 1-23 including Record on appeal Vol. I and Vol. II or Exhibit 18 with the Oconee County, clerk of Court and served them on the attorney General, Alan Wilson at P.O. Box 11549, Columbia, South Carolina 29211.

8. On October 31, 2013 I filed a motion to Amend PCR Application and served it on the Attorney General, Alan Wilson at P.O. Box 11549, Columbia, South Carolina 29211.

9. In addition, On October 31, 2013 the Court appointed Hugh W. Welborn as

second counsel on my PCR case.

10. Then on January 14, 2014 I filed a motion to Amend and Supplement PCR Application with the Clerk of Court and served them on Hugh W. Welborn at P.O. Box 173, Anderson, SC 29622 and on the Attorney General, Alan Wilson at P.O. Box 11549, Columbia, South Carolina 29211.

11. On March 19, 2014 I filed a motion for Summary Judgment, memorandum in support of Summary Judgment, Affidavit of DENNIS TEMPLE and Exhibits 1, 2, 3, 4, 20 & 21 with the Oconee County, Clerk of Court, on Hugh W. Welborn at P.O. Box 173, Anderson, SC 29622 and on the Attorney General, Alan Wilson at P.O. Box 11549, Columbia, South Carolina 29211.

12. The Defendant has been given over 30 days to respond to my motion for Summary Judgment and has failed

to respond.

FUTHER THE DEPONENT SAYETH NOT.

Dennis M Temple

DENNIS TEMPLE, # 274802

Lieber Conn Inst. EB-35

P.O. Box 205

Ridgeville, SC 29472

May 6, 2014

Sworn to and acknowledged before
me this 6th day of May 2014.

Sise M Cross
NOTARY Public for South Carolina

my commission Expires Jan 26, 2024

STATE OF SOUTH CAROLINA)
COUNTY OF OCONEE)
DENNIS TEMPLE #00274802,)
PLAINTIFF,)
VS.)
STATE OF SOUTH CAROLINA,)
DEFENDANT,)

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT

NOTICE OF MOTION & MOTION TO
BE RELIEVED AS COUNSEL

CASE #: 2013-CP-37-729

FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT
2014 MAR 11 AM 11:30

TO: PLAINTIFF, DENNIS TEMPLE AND DEFENDANT, STATE OF SOUTH CAROLINA THROUGH THEIR ATTORNEY, WALT WHITMIRE

YOU WILL PLEASE TAKE NOTICE that the Plaintiff's attorney, Hugh W. Welborn, will move before the presiding Circuit Court Judge on the tenth day after service hereof or as soon thereafter as counsel may be heard for an Order relieving him as attorney for Plaintiff Dennis Temple.

The reasons for this motion include but are not limited to the following:

1. The Plaintiff has, on numerous occasions, demanded that the undersigned file motions and amend his post conviction relief petition on grounds that are without legal or factual basis.

2. The Plaintiff has demanded that the undersigned subpoena the jurors in his case who found Plaintiff guilty, for reasons unexplained and that would have no bearing upon his petition for post conviction relief.

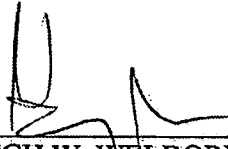
3. The Plaintiff has mailed approximately 1,000 pages of his "memorandums of law", along with other documents and pleadings which he has demanded the undersigned file without change or delay. Further, many of these issues raised by Plaintiff are improper issues for post conviction relief and have already been ruled upon on numerous occasions by different Circuit Court judges.

4. The undersigned attorney would be in violation of his ethical obligations if he were to file motions that are frivolous, or without factual or legal basis. Further, subpoenaing the jurors who found this Plaintiff guilty could subject the undersigned to

ENTERED
COMPUTER

ethical complaints, as subpoenaing jurors could be considered to be coercive and invading the privacy of a juror panel.

This motion is based upon such statute, case law and ethical rules as are applicable.



HUGH W. WELBORN
ATTORNEY FOR PLAINTIFF
P. O. BOX 173
ANDERSON, SC 29622
(864) 226-5787

Anderson, South Carolina
May 11 2014.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF OCONEE	)	TENTH JUDICIAL CIRCUIT
	)	
Dennis M. Temple,	)	C.A. No. 2013-CP-37-729
S.C.D.C. No. 274802,	)	
	)	
Applicant,	)	
	)	
v.	)	RETURN AND PARTIAL MOTION
	)	TO DISMISS AND MOTION FOR A
	)	MORE DEFINITE STATEMENT
	)	(counsel has been appointed)
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

The Respondent, making its Return to the Application for Post-Conviction Relief (PCR) filed October 15, 2013, would respectfully show this Court:

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Oconee County. The Applicant was indicted at the September 2010 term of the Court of General Sessions for Oconee County for grand larceny, valued five-thousand dollars or more (2010-GS-37-886), kidnapping (2010-GS-37-888), and two counts of criminal sexual conduct, first-degree (2010-GS-37-887, -889). The Applicant was initially retained Robert Mills Ariel, Esq., to represent him at motion hearing regarding his bond. A hearing on the matter was convened on June 30, 2010 before the Honorable Alexander S. Macaulay. **R. pp.11-20.** Applicant insisted on self-representation for future matters. **R. p.18.** Out of an abundance of caution, Judge Macaulay appointed counsel. **R. p.18.**

Sarah Drawdy, Esq., and Keith Denny, Esq., were appointed represent him on his case. On July 29, 2010, a motion hearing was convened on Applicant's pro se motion to have his attorneys relieved from the case. **R. pp.21-31.** Applicant argued the motion was based on a breach of trust.¹ **R. p.24.** The Honorable J. Cordell Maddox, Jr., ultimately discharged Attorney Drawdy and Attorney Denny from the case and gave Applicant thirty (30) days to retain private counsel. **R. p.27.**

On September, 9, 2010, another motion hearing was reconvened before Judge Maddox to revisit lingering issues concerning Applicant's Sixth Amd. Right to counsel. **R. pp.20-50.** As a result of Applicant's wavering on the matter, Judge Maddox appointed Kurt Tavernier, Esq., as Applicant's fourth and final attorney on the case. **R. p. 48.** Judge Maddox issued several rulings concerning other pro se motions brought to the court by Applicant.

On September 22, 2010, a motion hearing pursuant to Shmerber was convened before Judge Macaulay. Applicant was present and was represented by Attorney Tavernier. **R. pp.52-77.** On October 21, 2010, another motion hearing was convened pursuant to Applicant's pro se motion to have Attorney Tavernier relieved before Judge Maddox. **R. p. 79-110.** Applicant apprised Judge Maddox that, "Mr. Tavernier has made threats against his people killing my people if I don't plead guilty." **R. p.82.** Judge Maddox warned Applicant on the perils of self-representation. **R. pp.82-83.** Applicant explained to Judge Maddox that "I have fifteen years experience in the law." **R. p.84.** Attorney Tavernier apprised Judge Maddox that the allegation was entirely false and based upon Applicant's ulterior disappointment in Attorney Tavernier's decision not to raise frivolous arguments and objections. **R. pp.85-86.** Judge Maddox ruled that he would not appoint a fifth attorney to Applicant's case. Judge Maddox commented, "you're

¹ Applicant was unable to articulate the basis other than he was generally unhappy in the manner his attorneys were proceeding with his case.

welcome to hire a lawyer or you're welcome to represent yourself, or you could have Mr. Tavernier who I've appointed for you." **R. p.89.** On November 15, 2010, Judge Maddox issued an order titled "Amended Order Appointing Standby counsel" on November 8, 2010. **R. pp.111-18.**

On December 7, 2010 a final pre-trial motions hearing was convened before Judge Maddox to conclude all substantive preliminary matters. Applicant was present and proceeded pro se with Attorney Tavernier as "advisory counsel." **R. pp.119-210.** Judge Maddox continued to warn Applicant of the inherent risks of self-representation and apprised Applicant that he would be responsible for understanding to the Rules of Evidence, required court-room decorum, and error preservation. **R. p.131; p.134; p.145.** During the course of the hearing, Judge Maddox commented that "I've gone over exhaustively your right to counsel." **R. p.202.** Based on exhaustive inquiries regarding Applicant's Sixth Amendment rights, he made the final determination to proceed to trial pro se with the assistance of Attorney Tavernier as advisory counsel. **R. p.204.** Applicant apprised Judge Maddox that he had been representing himself from the beginning of his case that he was comfortable proceeding to trial pro se. **R. p.202.**

On December 13, 2010, the State called its case to trial. Applicant was present and proceeded pro se with Attorney Tavernier as advisory-counsel. **R. pp.211-657.** On December 15, 2010, upon fifteen minutes of jury deliberations, Applicant was found guilty as indicted. **R. p.657.** Judge Maddox sentenced Applicant to a term of thirty (30) years imprisonment for csc, first-degree (-887), a term of thirty (30) years imprisonment for csc, first-degree (-889), a term of thirty (30) years imprisonment for kidnapping (-888), and a term of ten (10) years imprisonment for grand larceny, greater than \$5,000. All sentences were to be served consecutively for an aggregate term of 100 (one-hundred) years imprisonment.

A timely Notice of Appeal was filed on the Applicant's behalf and an appeal was perfected by Wanda H. Carter, Esq., of the Office of Appellate Defense, pursuant to Anders v. California² on September 29, 2012. Appellate counsel Carter raised the issue that the trial judge erred in denying Applicant's request for counsel in the middle of trial because the trial judge's prior waiver colloquy on the matter was insufficient pursuant to Faretta v. California³. **FBOA pp.1-10**. Applicant additionally filed a seventy-eight page pro se brief on October 29, 2012 to the South Carolina Court of appeals where he raised the two following issues:

1. "Did the judge err when he failed to suppress the evidence obtained from the arrest warrants that was issued upon a supporting affidavit that did not link Appellant to the criminal activity or storage unit #193, and failed to link the storage unit #193 to Appellant." **Pro Se FBOA pp.1-12**.
2. "Did the state commit perjury upon the court when it contended that this case was fast-tracked due to appellant's speedy trial motion." **Pro Se FBOA pp.13-16**.

The Court of Appeals dismissed the appeal. State v. Temple, No. 2013-UP-350 (filed September 11, 2013). The Remittitur was issued on September 27, 2013.

Attached herewith and incorporated herein by reference are the records of the Oconee County Clerk of Court regarding the subject conviction(s), the transcript from Applicant's trial hearing, Applicant's records for the Department of Corrections, and Applicant's appellate records. Respondent reserves the right to amend its return upon the receipt of other relevant records.

A.

Applicant alleges "ineffective assistance of appellate counsel." **Application for PCR 'APCR' p.12**. Respondent now moves Applicant for a more definite statement pursuant to Rule 12(e) of the South Carolina Rules of Civil Procedure. "If a pleading to which a responsive

² Anders v. California, 386 U.S. 738 (1967)

³ Faretta v. California, 422 U.S. 806 (1975).

pleading is permitted is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading, he may move for a more definite statement before interposing his responsive pleading.” SCRCP 12(e). Respondent intends to move for summary dismissal of this allegation absent a more definite statement with sufficient specificity regarding this allegation.

B.

Respondent’s submits this Court should summarily dismiss the following allegations pursuant to the doctrine of *res judicata*:

1. “Applicant, Dennis Maurice Temple was arrested and detained at the Oconee County Detention Center on arrest arrests that was issued upon a supporting affidavit or sworn written statement of the alleged victim that (1) was completely void of facts connecting Applicant to criminal activity, (2). There was no facts connecting applicant to the storage unit #193, (3). There was no facts connecting storage unit #193 to any criminal activity, (4). There was no facts under by the alleged victim stating the applicant was identified as the accused, (5). There was no mentioning of the applicant in the affidavit or sworn written statement of the alleged victim, (6) arrest warrants were issued upon facts never sworn too, (7). There was no probable cause to arrest.” **APCR p.11;** further more redundantly repeated in allegations (b), (f), (g), (h), & (m) on **APCR p.12; pp.14-15; p.17.**
2. “Applicant was coerced to represent himself during trial.” **APCR p.12**

Res judicata prohibits subsequent actions by the same parties on the same issues. Bell v. Bennett, 307 S.C. 286, 414 S.E.2d 786 (Ct. App. 1992). A final judgment on the merits in a prior action bars subsequent consideration of those issues in a new action. Foran v. USAA Casualty Ins. Co., 311 S.C. 189, 427 S.E.2d 918 (Ct. App. 1993). *Res judicata* also bars any issues that could have been raised in the former action. Id. This application presents allegations that could have been and were in fact raised in those prior collateral proceedings. In Appellate counsel’s Anders brief, she presented an issue concerning Applicant’s self-representation to the Court of Appeals. The Court subsequently dismissed Applicant’s appeal. Therefore, the issue has been raised and ruled upon.

Subsequent to Appellate counsel perfecting Applicant's appeal pursuant to Anders on September 28, 2012 and motion to be relieved as Applicant's appellate attorney, he filed a pro se brief and presented an issue concerning the admissibility of evidence obtained from the search warrant to the Court of Appeals. The matter was properly raised by Applicant at that juncture and was considered by the Court of Appeals. Similarly, *res judicata* bars further litigation on that matter. Therefore, Respondent requests this Court summarily dismiss these allegations.

C.

The remainder of Applicant's allegations are direct appeal issues that are procedurally barred direct by S.C. Code Ann. § 17-27-20(b) (2003).

1. "indictments were not issued within 90 days." **APCR p.12.**
2. "The six man photo lineup of the applicant and five other black was assemble and shaded in a unduly and suggestive way, that gave way to irreparable misidentification and (2) the trial court judge failed to make specific findings of facts to mixed questions of law before its ruling in suppression hearing on the photo lineup. **APCR pp.13-14.**
3. "once the state presented its case against applicant during trial, the applicant was denied by judge to present witnesses for his defense." **Application for Post-Conviction Relief 'APCR' p.16.**
4. "The State failed to disclose photos of the alleged victim, her car, state witnesses names who testified during trial and a photo of the applicant which was used during trial to convict the applicant. In addition, the State further failed to disclose other materials in it's possession or control to the applicant which would have contradicted the state's claims or cleared the defendant of blame. **APCR pp.15-16.**
5. "one of the initial jurors started making comments about the case before the case was submitted to the jury for deliberation and was replaced by one of the two alternates, The record is void of these transactions and occurrences." **APCR p.16.**
6. "Trial Judge and solicitor leading the state witness on what to testify to or say on cross examination." **APCR p.17.**

Post-conviction relief is not a substitute for an appeal. Simmons v. State, 264 S.C. 417, 423, 215 S.E.2d 883, 885 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on appeal. Drayton v. Evatt, 312 S.C. 4, 8, 430 S.E.2d 517,

520 (1993). As a result Respondent urges this Court to summarily dismiss the following allegations raised by Applicant under the above mentioned authority.

CONCLUSION

The Respondent moves for summary dismissal pursuant to S.C. Code Ann. § 17-27-70 on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law. In an application for post-conviction relief, it is incumbent upon the Applicant to make at least a prima facie showing which would entitle him to relief before an evidentiary hearing will be scheduled and held. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). If Applicant has an attorney appointed, the attorney, and not the inmate, is the only one authorized to file amendments. SCRCP Rule 11. Filings by inmates will not be considered⁴.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

WHEREFORE, having made its Return, the Respondent requests that a hearing be held solely on Respondent's motion to dismiss Applicant's PCR action.

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Assistant Deputy Attorney General

WALT WHITMIRE
Assistant Attorney General

⁴ PCR counsel was appointed to Applicant's case on October 21, 2013. Applicant has filed pro se amendments and motions that have failed to comply with SCRCP, Rule 11.

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

July 7th, 2014

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

DENNIS M. TEMPLE

Applicant,

vs

STATE OF SOUTH CAROLINA,

Respondent

IN THE COURT OF COMMON PLEAS
IN THE TENTH CIRCUIT

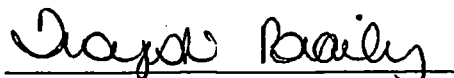
2013-CP-37-00729

AFFIDAVIT OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Hugh W. Welborn
P.O. Box 173
Anderson, SC 29622

DATED this 7th day of July, 2014


 Troyeshi Brailey, Legal Assistant
 For Respondent

State of South Carolina

County of Oconee

In the Court of Common Pleas

Dennis Temple,

Applicant,

-vs-

State of South Carolina,

Respondent.

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)

2013-CP-37-729

July 28, 2014

Transcript of Record

B E F O R E:

The Honorable Edgar W. Dickson, Judge

A P P E A R A N C E S:

Hugh Welborn, Esquire
Attorney for the Applicant

John W. Whitmire, Esquire
Attorney for the State

Renee H. Tollison, CVR
Circuit Court Reporter (Retired)

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EXHIBITS

No	DESCRIPTION	ID	EV
A-1	<i>No exhibits were presented during the hearing</i>		
A-2			
A-3			

1 **July 28, 2014**

2 (WHEREUPON, court convened with all parties present
3 and the following proceedings were had commencing at
4 approximately 1:05 p.m.)

5 THE COURT: Mr. Temple, right now, he has the
6 opportunity to put what he believes the facts of this
7 case on the records, and then you will have an
8 opportunity after he's done that to make a statement.
9 Okay? Now, right now you have an attorney representing
10 you, so your attorney is the one that's going to be
11 talking to me. Okay?

12 APPLICANT TEMPLE: Yes, sir.

13 MR. WHITMIRE: Your Honor, Mr. Temple was
14 convicted with, we would posit, overwhelming evidence of
15 guilt. Deliberations lasted fifteen minutes. There was
16 DNA evidence found on the victim, DNA evidence found
17 within her vehicle. Mr. Temple was also placed at the
18 scene through a security code from his unit four minutes
19 after she arrived. The victim positively identified Mr.
20 Temple.

21 He represented himself pro se at trial, Your Honor,
22 and the circumstances surround that are significantly
23 detailed in the State's return motion to dismiss. The
24 sole issue on appeal was whether Mr. Temple waived his
25 Sixth Amendment rights and whether that constituted a

1 Sixth Amendment violation.

2 Wanda Carter of the Office of Appellate Defense
3 represented Mr. Temple. She filed her brief pursuant to
4 Anders in September of 2012. In October, Mr. Temple
5 additionally filed a seventy-eight page brief on his own
6 behalf. The Court of Appeals denied and dismissed Mr.
7 Temple's cause of action. He's since filed a timely PCR.

8 Your Honor, I'm aware that Mr. Welborn has a motion
9 before this Court. However, this isn't a very odd
10 procedural case. A PCR isn't a forum in which we address
11 the Sixth Amendment right to counsel. Mr. Temple
12 voluntarily, constitutionally waived that. The Court of
13 Appeals has found that. Furthermore, any failure to
14 object, preserve the record for appeal was on Mr. Temple.

15 Your Honor, the Supreme Court in State v. Livensteen
16 stated, you know, appellate has made his bed, and now he
17 must lie in it. The State is intending to dismiss Mr.
18 Temple's action today.

19 At this time, I turn matters over to Mr. Welborn.

20 THE COURT: Mr. Welborn, I'll be happy to hear
21 from you, please, sir.

22 MR. WELBORN: May it please the Court. Your
23 Honor, again, I am Hugh Welborn. I represent Mr. Temple.
24 Your Honor, first of all, let me say for the record I
25 have read everything in his transcript, which is well

1 over a thousand pages, twelve or thirteen hundred pages.
2 I've read all the numbers and various amendments he has
3 sent me over a period of time. I've read them. They're
4 voluminous. He's sent me numbers of requests, which
5 subsequently became demands that I amend and do certain
6 things that I felt would possibly be unethical, if not
7 illegal, as a lawyer. And I've indicated that to him.

8 And so, Your Honor, first of all, I'm prepared. I'm
9 ready to go. I've read everything, and I can put him on
10 the stand and let him tell the Court his situation.

11 I've also, Judge, filed a motion to be relieved
12 because some of the things he asked me to do I consider
13 to be not appropriate. As an example, he asked me to
14 subpoena every juror on this case. And in the list, I
15 think fourteen had served on the panel. He never gave me
16 a reason why, never said there was some kind of juror
17 misconduct or outside influences or anything else about
18 it. And so I sent him a letter back basically saying I
19 couldn't do that and the reasons why, and he didn't like
20 that.

21 I've also -- he also asked me to subpoena the
22 preliminary hearing attorneys, Sarah Drawdy and I believe
23 a gentleman that was up here from Oconee. I did that at
24 his request, and I believe that motion -- or those things
25 were quashed by Judge McIntosh a few days ago.

1 I tried to explain to my client that what happened
2 in a preliminary hearing wasn't going to affect the
3 merits or the outcome of his case, and he doesn't
4 understand that. I would also note for the record that
5 he has -- all of these issues that I've just raised about
6 subpoenaing various people and, you know, the sufficiency
7 of the warrant, which he alleges was insufficient, those
8 have been ruled on a number of times, and in the
9 transcript, by, I believe it was, Judge Cordell Maddox
10 who ruled on the merits of his trial in most of those
11 cases.

12 And I think also that Mr. Temple would allege that
13 he was forced to represent himself. The record is
14 replete with Judge Maddox and other judges basically
15 telling him: you really need some help. And they
16 appointed various counsel. He dismissed all of them to
17 represent himself in the end. So it's hard for me to
18 really go forward and be appropriate as to the issues
19 when he basically represented himself and his complaints
20 are about disciplinary hearing attorneys more than
21 anything else.

22 So I've made a motion to be relieved, but I will
23 tell the Court if my client says, I want Mr. Welborn to
24 go forward on this today, I am prepared. I am ready to
25 go. If he says, I don't want you, I want to represent

1 myself, I'll let the Court rule on that. I am ready. I
2 want the record to reflect that either way, I will do
3 whatever this Court tells me to. I've spent a lot of
4 time on this file, probably more than I've ever spent on
5 any PCR in twenty-eight years.

6 THE COURT: Okay. Thank you very much, Mr.
7 Welborn.

8 Mr. Temple, okay, now you can stand up and talk to
9 me.

10 APPLICANT TEMPLE: Yes, sir.

11 THE COURT: All right. Mr. Temple, wait a
12 minute. I've got to -- I'm going to ask you some
13 questions. Okay?

14 APPLICANT TEMPLE: Yes, sir.

15 THE COURT: Now, one of the reasons that you
16 got into trouble at the initial trial is you were not
17 represented by an attorney. Do you understand that?
18 That's a yes or a no. Do you understand it or not?

19 APPLICANT TEMPLE: Yes.

20 THE COURT: Okay. And that was one of the
21 issues that was taken up on appeal; is that correct?

22 APPLICANT TEMPLE: Right.

23 THE COURT: Okay. Now, do you want Mr. Temple
24 [sic] to represent you in this or not?

25 APPLICANT TEMPLE: Mr. Welborn?

1 THE COURT: I mean Mr. Welborn. Excuse me.

2 APPLICANT TEMPLE: Your Honor, let me say
3 something.

4 THE COURT: Mr. ---

5 APPLICANT TEMPLE: I initiated this proceeding,
6 PCR, post-conviction relief, application on October the
7 15th. There are strict rules that an inmate must state
8 specifically the reasons for the grounds. Mr. Welborn
9 was appointed on October the 31st, 2013, as my attorney.
10 I realized after I filed the motion, the application, I
11 made several mistakes on my grounds and issues, so I
12 wrote Mr. Welborn a letter, which I have copies of in my
13 folder. But I asked Mr. Welborn would he amend and
14 supplement my issues and my grounds so that when I get up
15 here that I wouldn't be at a loss. Ineffective
16 assistance of counsel, state my grounds, constitutional
17 grounds, statutory grounds, common-law grounds,
18 ineffective assistance of counsel. Also ---

19 THE COURT: You didn't have counsel.

20 APPLICANT TEMPLE: Your Honor, I was forced to
21 represent myself.

22 THE COURT: Okay.

23 APPLICANT TEMPLE: The record is clear.

24 THE COURT: Mr. Temple ---

25 APPLICANT TEMPLE: I'm not arguing that, but

1 what I'm getting at is this. Mr. Welborn has not
2 prepared, ordered the transcript or amended my
3 application in order to proceed in these proceedings
4 today. That's what I'm getting at.

5 THE COURT: Okay. Now, I'm going to ask you
6 the question I asked you before you started. Do you want
7 Mr. Welborn to represent you on this matter, or do you
8 want to make the same mistake you made at trial?

9 APPLICANT TEMPLE: Do I want -- if Mr. Welborn,
10 if he has my transcript on my PCR proceedings so I can --
11 my witnesses are not even here who I subpoenaed. And he
12 said that the motion was quashed. So ---

13 THE COURT: The court's already ruled on that.
14 Okay? Let's go back to my question. This is the last
15 time I'm going to ask it. Okay? Do you want Mr. Welborn
16 to represent you in this, or do you want to continue to
17 make the same mistake you made at trial, to go forward
18 without an attorney?

19 APPLICANT TEMPLE: I'm going to let Mr. Welborn
20 -- I'm going to let him do it. But Your Honor, like I
21 said, he's not prepared to go forward with my issues. I
22 know my issues better than I do Mr. Welborn.

23 THE COURT: Mr. Temple, he tells me he's
24 prepared. He is a well-respected member of the legal
25 community here. He does a lot of PCRs. I have every

1 faith, in fact, that he is prepared to go forward.

2 APPLICANT TEMPLE: I'm going to sit back here
3 and let him --

4 THE COURT: Thank you, sir. All right. Mr.
5 Temple, you're still ... I mean Mr. Welborn, you're
6 still doing this.

7 MR. WELBORN: Yes, sir.

8 THE COURT: Okay. So are you ready to go?

9 MR. WELBORN: I'm ready to go.

10 THE COURT: All right, sir.

11 MR. WHITMIRE: May it please the Court.

12 Certainly, in my motion to dismiss, the only cause of
13 action Mr. Temple has that's viable in this forum would
14 be ineffective assistance of appellate counsel, which he
15 had. However, the State would show, and intends to show,
16 that no matter how he tees up this allegation, he had the
17 entire Court of Appeals, an army of staff attorneys and
18 judicial law clerks look through his transcript to find
19 any possible preserved issue of merit. They did not.
20 And they denied and dismissed and ordered a -- and the
21 remittitur came down on his appeal.

22 Your Honor, the State intends to object to anything
23 extraneous that's outside of the realm of which he can
24 proceed on today.

25 THE COURT: Okay.

1 And Mr. Welborn?

2 MR. WELBORN: Your Honor, I'll certainly
3 present my case the best I can. I'm sure opposing
4 counsel will object, and I will abide by whatever ruling
5 the Court makes as I would in any case.

6 THE COURT: Okay. Well, I'm going to let you
7 go forward. Okay?

8 MR. WELBORN: Yes, sir.

9 THE COURT: And then I'll take up -- I'll rule
10 on your motion to dismiss after I've heard whatever he
11 wants to present.

12 MR. WHITMIRE: Thank you, Your Honor.

13 THE COURT: Okay. Thank you, sir. I
14 appreciate it. All right.

15 MR. WELBORN: May it please the Court.

16 THE COURT: Yes, sir.

17 MR. WELBORN: I call Dennis Temple to the
18 stand, please.

19 **DENNIS TEMPLE,**

20 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

21 DIRECT EXAMINATION

22 BY MR. WELBORN:

23 Q. You're Dennis Temple, sir?

24 A. Yes, sir.

25 Q. Can you hear me okay from here, sir?

1 A. Yes.

2 Q. Mr. Temple, you filed this post-conviction relief
3 action sometime back, and so it was timely filed, as I
4 understand it. I believe that was October of 2013.
5 You've alleged numbers of things in there. I'm going to
6 take them one-by-one and let you tell the Court your
7 reasons you filed this post-conviction relief.

8 Now, you allege, first of all, that your preliminary
9 hearing counsel, Mr. Denny and Ms. Drawdy, somehow were
10 ineffective for you and that there was a jurisdictional
11 issue because of that. And I think that there was an
12 issue about -- you allege that there's a defect in the
13 warrant. Do you want to tell the Court all about that,
14 please?

15 A. Yes. On May 11th, 2010 ...

16 THE WITNESS: Your Honor, can I refer to my
17 notes? Your Honor ...

18 THE COURT: If they will help you.

19 MR. WELBORN: I will bring them to you, Mr.
20 Temple.

21 THE WITNESS: Thank you.

22 MR. WELBORN: May I approach the witness?

23 THE COURT: You may.

24 THE WITNESS: Thank you, sir.

25 MR. WELBORN: Yes, sir.

1 THE WITNESS: Yeah. Your Honor, my first
2 response on May the 10th, 2010, a nineteen-year-old white
3 female Clemson student named Catherine McGough alleged in
4 her seven-page sworn statement to the police at the
5 Oconee County Medical Center: In conclusion, on May the
6 9th, 2010, she arrived at her storage shed unit at All-
7 Safe Storage in Seneca, South Carolina, at 4:30 p.m. when
8 she noticed a black man between the age of twenty and
9 forty walking around on site without a car. She became
10 nervous, and he tried to sell her some shoes which she
11 did not want to buy. He then beat her up and dragged her
12 into the storage shed, where he raped her and cleaned her
13 out with a blue rag and stole her car --

14 MR. WHITMIRE: Your Honor, I'm going to ---
15 A. -- and left her inside --

16 MR. WHITMIRE: I object.

17 THE COURT: Hold on, Mr. Temple.

18 MR. WHITMIRE: I object on relevance. This is
19 outside the scope of ineffective assistance of appellate
20 counsel. Mr. Temple has brought these issues regarding
21 his indictments, his arrest warrants, et cetera, to the
22 Court numerous time and renewed them.

23 THE COURT: Were they ruled on in a previous
24 PCR?

25 MR. WHITMIRE: Not PCR, but at trial. I think

1 he -- I believe he brought some forty-plus motions,
2 including these, to the Court's attention.

3 MR. WELBORN: That's correct.

4 MR. WHITMIRE: It's res judicata, Your Honor.
5 It was raised and ruled -- could have been raised in the
6 direct appeal. In fact, he raised most of these
7 indictment issues, these preliminary issues, in his pro
8 se direct appeal. The Court of Appeals determined it did
9 not have merit and denied and dismissed pursuant to
10 Anders.

11 MR. WELBORN: In all candidness with the Court,
12 those issues were raised a number of times.

13 APPLICANT TEMPLE: Your Honor ---

14 THE COURT: Hold on.

15 MR. WELBORN: That's all I had to say.

16 THE COURT: All right. If you'd move on, move
17 on with anything else.

18 I sustain your objection.

19 THE WITNESS: Can I say something, Your Honor?

20 THE COURT: No, you cannot. You've got to move
21 on.

22 MR. WELBORN: Okay.

23 THE COURT: Okay. Go ahead.

24 BY MR. WELBORN:

25 Q. Mr. Temple, you've also alleged in your application

1 for post-conviction relief that they, they being the
2 attorney general's office, did not timely do anything
3 about the application. And you asked me -- in fact you
4 told me about your motion for summary judgment saying
5 that it wasn't timely done. Tell the Court about that,
6 please. What do you want to have happen on that? What's
7 your position, please?

8 A. On my motion for summary judgment?

9 Q. Yes, sir. That's what you filed and you told me you
10 wanted the Court to hear that.

11 A. This is -- the motion for summary judgment was not
12 responded to. It deals basically with the same issue.
13 The same issue, only raised in the motion to dismiss the
14 allegation -- to dismiss the conviction and the sentence
15 and vacate and remand the case back to the county.

16 Q. Now, you filed a motion for summary judgment, I
17 believe, because you said they didn't timely comply with
18 the statute of answering within some period of time. Is
19 that what you allege, sir?

20 A. The Fourth Amendment of the South Carolina
21 Constitution, Article I, Section 10, due process. I
22 mean, statute § 17-13-140. The procedures of the arrest
23 warrant were never followed. I was never even mentioned
24 as the alleged assailant in this crime.

25 Q. Let's get back to your summary judgment motion.

1 You've asked the Court to dismiss this because you said
2 the State never followed up in a timely manner on your
3 post-conviction-relief matter. And you demanded I file
4 that. That's what I'm asking you a question about it.
5 Tell the Court about that. Why should the Court dismiss
6 this right now and go home? Or dismiss the allegations
7 by the State and we'll get you a new trial. Why should
8 the Court rule that way, sir?

9 A. Mr. Welborn, I'm not clear -- I don't clearly
10 understand what it is that you were saying.

11 Q. All right. I'll try to repeat it very carefully.
12 You filed a motion for summary judgment here, I believe
13 it says March of 2013.

14 A. Correct.

15 Q. And you wrote a memorandum in support of that.

16 A. Correct.

17 Q. And you sent it to me.

18 A. Right.

19 Q. And you demanded that I file that. And you wanted
20 the Court to hear it. And I told you I didn't think
21 that was something that would be within the parameters of
22 this jurisdiction in this Court. However, I told you I'd
23 let you tell the Court whatever you wanted to say about
24 that, because that's what you want the Court to do is to
25 rule on these things. So you tell the Court why your

1 motion for summary judgment should be granted.

2 A. Well, Your Honor, the State did not file a response
3 to the post-conviction relief application according to
4 § 17-27-20, I believe it is. After the thirty days had
5 passed, I moved then to file for a motion for summary
6 judgment. I waited thirty days as well when I filed that
7 motion -- after I filed that motion.

8 Q. So basically what you're saying is they're in
9 default. They didn't answer. Is that your position, Mr.
10 Temple?

11 A. And then filed another motion.

12 Q. Yes, sir.

13 A. Yes, sir, a motion for default. I waited thirty
14 days as well regarding that motion.

15 Q. Okay.

16 A. The State never filed a return.

17 Q. All right. Thank you.

18 THE WITNESS: Yes, Your Honor, I request that
19 my motion be granted.

20 MR. WHITMIRE: Objection. Non-responsive.

21 THE COURT: I understand.

22 Okay. Go ahead.

23 BY MR. WELBORN:

24 Q. Mr. Temple, we're going to let the Court rule on all
25 of this. I'm just letting you tell the Court what you

1 want him to hear. Okay? I think we've got the
2 information out there on that.

3 I've also given some information to the Court about
4 your request for subpoenas of Mr. Denny and Sarah Drawdy
5 from your preliminary hearing. I think there's been a
6 ruling on that or there will be.

7 But let's talk about you asked me to -- in fact, you
8 demanded that I subpoena the jurors in your case. Now,
9 tell the Court so the Court will know -- maybe they need
10 to continue this case -- why should we subpoena the
11 fourteen jurors. And you named fourteen of them you
12 wanted me to get up here.

13 A. Yes, sir.

14 Q. Go ahead. The Court wants to hear, and I do too.
15 Please.

16 Q. Your Honor, during trial while the State was
17 presenting their case, one of the jurors went in the
18 deliberating room and started making comments in
19 reference to me.

20 MR. WHITMIRE: Objection to hearsay.

21 THE WITNESS: Your Honor ---

22 THE COURT: Well, let me ask you how do you
23 know a juror was making any comments? I'm just curious.

24 THE WITNESS: Because, Your Honor, the judge
25 was communicating with the foreman by letter. And it was

1 -- by note, right?

2 THE COURT: They send questions out. Is that
3 correct?

4 THE WITNESS: Okay. Yeah.

5 THE COURT: All right.

6 THE WITNESS: And one of the jurors was swapped
7 out. One of the twelve jurors was swapped out for an
8 alternate. The record is silent of this occurrence.

9 THE COURT: Okay.

10 THE WITNESS: And my reason for requesting that
11 the twelve jurors to be here to testify was to testify to
12 my allegations because I do bear the burden on PCR to
13 prove my allegations.

14 BY MR. WELBORN:

15 Q. And thank you, Mr. Temple. We'll let the Court rule
16 on that.

17 A. You're welcome, sir.

18 Q. Now, let's move on to the next thing that you've
19 alleged in here. You've alleged in your arrest warrant
20 that Sergeant Scott Arnold didn't know -- there wasn't
21 probable cause in there for you to be arrested. Tell the
22 Court about that.

23 A. Probable cause to arrest me. Sergeant Scott Arnold
24 ---

25 MR. WHITMIRE: Objection, Your Honor, for the

1 record. Renew relevance.

2 THE COURT: I'm going to let you go ahead and
3 finish.

4 MR. WELBORN: Go ahead, Mr. Temple.

5 THE COURT: Your question was?

6 BY MR. WELBORN:

7 Q. Go ahead.

8 A. Sergeant Scott Arnold's arrest warrant was -- his
9 information came from a source. His affidavit was based
10 on conclusionary statements. They never stated -- set
11 forth the facts and circumstances in which he believed
12 that I had committed the crimes. The source of his
13 information was the victim, the alleged victim. Her
14 truthfulness and reliability, and the information that
15 she gave was never included in the arrest warrant, which
16 his required by Illinois versus Gay (phonic), United
17 States versus Leon (phonic).

18 And also, when we look at the victim's statement,
19 which is Sergeant Scott's own affidavit, he stated that
20 that's his source of his information was the victim. And
21 looking at the victim's statement, the victim's statement
22 doesn't even mention my name. She don't even mention
23 that she identified me in the photo lineup.

24 Q. Let me interrupt at this point, Mr. Temple. Okay?
25 I appreciate what you're saying. But let me get on to

1 another thing that's related to this because I think it
2 would be important for you.

3 You've also alleged that there was an improper
4 search and seizure. Tell the Court about that.

5 A. Well, once again, I mean, probable cause. There was
6 no probable cause to arrest. There was no probable cause
7 to search, to eject blood from me, which is a search, at
8 the scene.

9 Q. Now, who was your lawyer at that time that made
10 these errors, Mr. Temple?

11 A. Sarah Drawdy and Keith Denny, which is why ---

12 Q. That was the preliminary hearing counsel; is that
13 correct, sir?

14 A. Right.

15 Q. Very good. Now, I believe in reading the transcript
16 that you, yourself, made that objection numbers of times
17 and brought that up at trial as well; is that correct,
18 Mr. Temple?

19 A. No, sir. I'm not skilled, and I'm not trained in
20 the field of law. I have no -- I have limited
21 experience.

22 Q. Did you bring it up at trial, Mr. Temple?

23 A. The arrest warrants was never mentioned.

24 Q. Okay. Did you bring that up at trial, Mr. Temple?

25 A. No, sir.

- 1 Q. You did not?
- 2 A. It was not raised. The issue was not raised by the
3 State.
- 4 Q. Then I'm sure you appealed that?
- 5 A. Yes, sir, but not in the fashion that I understand
6 it ---
- 7 Q. Okay. And you wanted ---
- 8 A. -- today.
- 9 Q. And because of that, you're asking the Court to find
10 your appellate counsel was ineffective; is that correct,
11 Mr. Temple?
- 12 A. Yes, sir. I am asking to -- also because appellate
13 counsel never had my appeal based upon all my
14 transcripts. All my transcripts -- I did not receive all
15 my transcripts, but she had my appeal and was not having
16 all of them. You know what I'm saying?
- 17 Q. Let me ask you this, Mr. Temple. You sent me all of
18 your transcripts. I've identified them and reading them
19 as your transcripts, and you sent them all to me. Are
20 you telling me that there was more to this than what you
21 had?
- 22 A. That's right.
- 23 Q. You've got more than eleven hundred pages of
24 transcripts?
- 25 A. There was one missing that I never received, and she

1 never ordered.

2 Q. What pages would that be?

3 A. I don't know, Mr. Welborn. It's the preliminary
4 hearing transcript though.

5 Q. The preliminary hearing transcript?

6 A. Yes, sir.

7 Q. So you still contend that that's the biggest problem
8 is the preliminary hearing; is that correct, sir? I want
9 to be clear. Is that correct?

10 A. It's just one issue, Mr. Welborn. It's not the
11 biggest. The biggest issue here is the being forced to
12 represent myself and there was no probable cause to
13 arrest me.

14 Q. Okay.

15 A. Those are the two biggest issues.

16 Q. I appreciate you letting the Court know that. Let
17 me move on and ask you a few more questions, Mr. Temple.

18 Now, we've talked about the preliminary hearing
19 counsel quite a bit, and we've talked about -- I think
20 you allege that there was some type of defect in the
21 jurisdiction of the court because it lacked probable
22 cause on the warrant itself. We talked about that. Is
23 that correct? Is that one of your allegations, Mr.
24 Temple?

25 A. Yes.

1 Q. Thank you. We talked about the search. We talked
2 about those allegations. We talked about the jurors that
3 you wanted to come. Tell the Court what else that you
4 want to complain about that you feel was ineffective
5 assistance of counsel where you should get a new trial.

6 A. Based on the fact that there was no probable cause
7 to arrest me -- I was arrested on these arrest warrants,
8 detained. A preliminary hearing was held on July the
9 16th, 2010. A preliminary hearing's purpose is to
10 determine if there's probable cause. If Sarah Drawdy and
11 Keith Denny are my lawyers and the State presented their
12 probable cause for arresting me and they never objected
13 and stated specifically the reason for the objection in
14 presenting the evidence, what the law applies to the
15 situation, they was ineffective.

16 Q. And I want to make sure again for the record you've
17 raised this. You said that they're -- you want the Court
18 to rule on whether or not there should be a summary
19 judgment since the attorney general didn't, in your
20 opinion, respond timely. Is that correct, Mr. Temple?

21 A. Yes, sir.

22 Q. All right.

23 MR. WELBORN: If the Court will bear with me.

24 BY MR. WELBORN:

25 Q. Now, Mr. Temple you've alleged in general terms a

1 violation of the Fourteenth Amendment. Can you be more
2 particular about the violation for the Court to make a
3 ruling?

4 A. About the Fourteenth Amendment?

5 Q. Fourteenth. Not the Fourth. The Fourteenth, yes,
6 sir.

7 A. Yes, sir. Due process was required for my arrest.
8 It was required. It was never provided to me. I was
9 maliciously prosecuted as well as having no probable
10 cause. The law states clearly that you just can't go and
11 arrest a person if he's not connected to any criminal
12 activity. The criminal activity must be connected within
13 the four corners of the affidavit, which the officer
14 alleges his source of the affidavit was the alleged
15 victim statement.

16 Q. All right. Let me ask you this. You've also
17 alleged the violation of the Fifth, Sixth, and Fourth
18 Amendment. Do you want to tell the Court what violations
19 those were for post-conviction relief purposes?

20 A. The Fourth ---

21 Q. The Fourth, Fifth and Sixth Amendments.

22 A. Your Honor, I think that the Sixth Amendment
23 violation was in reference to being forced -- I mean, the
24 record is clear. The appellate record is clear. It
25 shows everything that I was coerced, forced by the judge

- 1 prior to selecting the jury.
- 2 Q. You were forced to represent yourself. Is that what
- 3 you're trying to tell the Court, Mr. Temple? You were
- 4 forced to represent yourself?
- 5 A. Prior to the jury being selected, I asked for a
- 6 continuance.
- 7 Q. Yes, sir. And that was not granted; correct?
- 8 A. Well, after the jury was selected, I asked for a
- 9 continuance.
- 10 Q. And that wasn't granted. Is that correct, Mr.
- 11 Temple?
- 12 A. That's ---
- 13 THE COURT: After the jury was seated?
- 14 THE WITNESS: Yes, sir.
- 15 THE COURT: He asked for a continuance?
- 16 THE WITNESS: Yes, sir.
- 17 MR. WELBORN: That's what he alleges, Your
- 18 Honor.
- 19 THE COURT: Okay.
- 20 THE WITNESS: It's in the transcript.
- 21 MR. WHITMIRE: Your Honor, I'm going to object
- 22 again on relevance and res judicata. This was raised and
- 23 ruled upon by his appellate counsel.
- 24 BY MR. WELBORN:
- 25 Q. Now, you also, though, for the Court's knowledge and

1 edification, you had stand-by counsel, Mr. Tavernier,
2 with you the whole time during the trial at the request
3 of the judge. Is that correct, Mr. Temple?

4 A. Yes, sir.

5 Q. All right. Now, you've alleged also that there were
6 violations in addition to the Fourteenth -- you said the
7 Fifth, and we've talked about the Sixth. Tell me about
8 the Fourth and the Fifth Amendment. I guess the Fifth is
9 you were forced to testify against yourself in some
10 fashion. Is that it, Mr. Temple?

11 A. No, sir, I was not forced to testify against myself.

12 Q. Well, tell the Court what you mean by that.

13 A. The Fifth Amendment?

14 Q. Yes, sir. The right against self-incrimination.

15 A. Oh, okay. In reference to the -- it's in reference
16 to the indictments. That issue has been -- it was raised
17 in the suppression hearing. Yes, Your Honor, the
18 indictments was not served on me within ninety days
19 according to the South Carolina Rules of Criminal
20 Procedure. Rule 3 specifically states that ---

21 Q. Let me be clear, Mr. Temple. Let's talk about the
22 Fifth Amendment. Okay? You talked about it not being --
23 things not being timely served and that's why you filed
24 to dismiss all of this at your original trial. You've
25 alleged improper issues with the indictments and lack of

1 probable cause and they didn't properly serve it. But
2 let's talk about the Fifth Amendment. You've alleged in
3 your post-conviction relief that that was violated. I
4 want you to tell the Court what happened there. That's
5 the right against self-incrimination.

6 A. The Fifth Amendment of the United States
7 Constitution, the relevant part, no person shall be held
8 to answer to a capital crime, otherwise a heinous crime
9 unless on presentment of indictment. That was with
10 regards to the indictments.

11 Q. So you're saying the indictment wasn't timely, so,
12 therefore, that's violated. Is that correct, sir?

13 A. Right. According to United States versus Kennedy,
14 volume I, 317 Federal 3rd 606, a 2004 case, criminal
15 procedures or rules governing the mechanism under which a
16 crime are investigated by the prosecution, adjudicated by
17 the judge, the court and punishment, it includes the
18 protections of the accused person's constitutional
19 rights. By the very fact that these indictments were not
20 issued in according to South Carolina Statute, Rule 3 of
21 the Criminal Procedures, my Fifth Amendment was violated.

22 Q. That's been violated is what you're saying?

23 A. Right.

24 Q. Got you. Let's talk about the Fourth Amendment.

25 How was that violated, please, sir?

1 A. The Fourth Amendment was violated because there was
2 no probable cause to arrest.

3 Q. Okay.

4 A. There's no specific facts of circumstances that the
5 officer alleged in his affidavit that -- there was not a
6 substantial amount of information there for the
7 magistrate to conclude that there was probable cause to
8 arrest me.

9 Q. Okay. Now, I'm just about through, so I'm going to
10 ask you a few more questions. Just for my own
11 clarification -- and I'm reading through here again --
12 you say that you were never accused in the affidavit of
13 being the person that committed these crimes. That's a
14 concern of yours in post-conviction relief today; is that
15 correct? Just yes or no will be fine.

16 A. Yes, sir. Yes, Mr. Welborn. And I wanted to raise
17 that issue.

18 Q. Well, you have.

19 A. Ineffective assistance of counsel.

20 Q. Okay. Tell the Court about how your counsel was
21 ineffective of that?

22 A. Because my counsel ---

23 Q. That was Mr. Denny and Ms. Drawdy; is that correct?

24 A. Yes, sir.

25 Q. Go right ahead, sir.

1 A. During the preliminary hearing, they should have
2 objected to the State's probable cause determination.

3 MR. WHITMIRE: Objection, Your Honor. Renew on
4 relevance.

5 THE COURT: Yes, sir. That's so noted in the
6 record.

7 Go ahead. Continue.

8 BY MR. WELBORN:

9 Q. Go ahead. Finish your answer, Mr. Temple. Go
10 ahead.

11 A. My two attorneys should have objected to the State's
12 probable cause where they alleged their reason for
13 arresting me. Now, the arrest warrant and the officer's
14 source of his information clearly is not good enough to
15 arrest me, so whatever it is that they used to arrest me
16 on was illegal. It was a lie. It was false. It was
17 perjury upon the court.

18 Q. Okay. All right. I think we've talked about that a
19 little bit. Now, you also say that apparently one of
20 your lawyers was ineffective because you didn't get to
21 call any witnesses. What lawyer was ineffective on that?
22 Was that Mr. Denny, your preliminary hearing counsel, or
23 Ms. Drawdy at some point?

24 A. You know, Mr. Welborn, when the State had closed
25 their case -- during the trial May 13th to the 15th,

1 2010, during the trial when the State closed their case,
2 the Defense has a right to present their case, right?

3 Q. Well, did you not get to present your case?

4 A. That's right.

5 Q. They wouldn't let you testify?

6 A. That's right. I requested my witnesses. The judge
7 -- I requested the State's witnesses to be my witness as
8 hostile witnesses.

9 Q. So let me ask you. I want the Judge to hear this
10 and be clear about it. Are you telling me that when you
11 were representing yourself, they wouldn't let you present
12 your own witnesses?

13 A. That's right. It's clear.

14 Q. None of them?

15 A. It's in the record.

16 Q. So are you saying that somehow there's ineffective
17 assistance of counsel on someone besides you in that
18 regard?

19 A. By the very fact that I was forced to represent
20 myself.

21 Q. Yes, sir.

22 A. There should be -- there should be some type of
23 ineffective ...

24 Q. Okay. Now, we talked about the jury issues, and we
25 talked about the arrest warrants. We talked about the

1 various amendments, Fourth, Fifth, et cetera. Now, Mr.
2 Temple, I think that I have covered everything you've
3 alleged. However, if there is something I have not
4 covered and you're aware of it, please tell the Court
5 what that is. I want the Court to know what you feel has
6 been ineffective about your counsel during the trial,
7 preliminary hearings, and appellate counsel. What else
8 do you want to tell the Court that I've not brought up,
9 Mr. Temple?

10 A. I think that my appellate counsel was ineffective by
11 the very fact that she proceeded with my appeal with not
12 receiving all the transcripts. There could have been
13 more motions that was objected to.

14 Q. But you represented yourself, didn't you?

15 A. Yes, I did, Mr. Welborn.

16 Q. Now, how would you -- I'm just trying to figure this
17 out, and I'm sure the Court is. Respectfully, how can
18 you say that someone is ineffective when you were
19 representing yourself and didn't make the objections?

20 A. Once again, I was forced to represent myself. I
21 mean, objections -- I made objections, plenty of
22 objections, on the record during trial.

23 Q. I believe the jury was sent out quite a bit on
24 those. Isn't that correct, Mr. Temple?

25 A. Right.

1 Q. Yes, sir. Is there anything else, Mr. Temple, that
2 you need to -- I've got your application. I've got your
3 amended. Do you have copies of those that you can look
4 through and make sure we covered everything, Mr. Temple?

5 A. Yes, sir, that's about -- the solicitor and the
6 judge leading the witnesses.

7 Q. Somebody leading the witnesses?

8 A. Right. Leading the witness on what to testify to or
9 say.

10 Q. Now, who did that, Mr. Temple?

11 A. The judge and the solicitor.

12 Q. And, now, was that during your preliminary hearing?
13 Was that in relation to ---

14 A. That was during trial.

15 Q. During the trial?

16 A. During my cross-examination of the witness.

17 Q. All right. So you want the Court to find that
18 basically since you were forced to represent yourself
19 that you were kind of ineffective because of you -- they
20 told you what to say and do and didn't let you put up any
21 witnesses. Is that basically what you're trying to tell
22 the Court, Mr. Temple?

23 A. What I'm saying is this.

24 Q. Yes, sir.

25 A. I'm not alleging ineffective assistance of counsel

- 1 or appellate counsel on all my issues. What I am
2 alleging ineffective assistance of counsel on is the very
3 fact that the affidavit was not supported by probable
4 cause.
- 5 Q. And we've talked about that a while ago.
- 6 A. Okay. But so this issue that I'm raising now ---
- 7 Q. Yes, sir?
- 8 A. --- the grounds for it is it's in violation of the
9 Sixth and the Fourteenth Amendment.
- 10 Q. Okay.
- 11 A. These are constitutional ---
- 12 Q. A couple more questions, Mr. Temple. I'm not
13 meaning to interrupt you. I'm trying to keep us focused
14 here. Have you got a copy of your application that
15 you're looking at and your application to amend? Do you
16 have those in front of you, Mr. Temple?
- 17 A. Yes, sir.
- 18 Q. Let's make sure we've covered everything you want to
19 talk about.
- 20 A. Yes, sir. Yes, sir, that's --
- 21 Q. You do have that, Mr. Temple?
- 22 A. Yes, sir, I do.
- 23 Q. All right. My last question. Is there anything
24 else you want to tell this Court that you think he needs
25 to hear about how you should get post-conviction relief?

1 Anything at all? Tell the Court right now.

2 A. Just what I stated, my previous statement. That's
3 all.

4 Q. Thank you, Mr. Temple. Answer anything opposing
5 counsel or the Court may have.

6 THE COURT: Mr. Whitmire, any questions?

7 MR. WHITMIRE: One moment, Your Honor.

8 (WHEREUPON, court stood at ease.)

9 MR. WHITMIRE: May it please the Court.

10 THE COURT: Yes, sir.

11 CROSS-EXAMINATION

12 BY MR. WHITMIRE:

13 Q. Good afternoon, Mr. Temple.

14 A. Good afternoon, sir.

15 Q. So you're alleging appellate counsel was ineffective
16 for not providing the court with all of your preliminary
17 hearing transcripts; is that correct?

18 A. No. I'm alleging that appellate counsel was not
19 effective because she proceeded on my appeal and not had
20 all the transcripts.

21 Q. Now, what is this transcript you're speaking of?
22 What date is it?

23 A. July the 16th, 2010.

24 Q. What judge was it before?

25 A. It was before -- I'm not even sure because I don't

- 1 even have the transcript.
- 2 Q. You can't remember?
- 3 A. No, I don't.
- 4 Q. Did you ever request this supposed transcript at
- 5 your trial?
- 6 A. Mr. Welborn, I asked my attorney ---
- 7 Q. I mean at your trial.
- 8 A. Did I ever request it?
- 9 Q. Uh-huh (affirmative). A copy of it.
- 10 A. It's a part of the record, isn't it?
- 11 Q. This July transcript you speak of doesn't exist.
- 12 That's why I'm asking you. Did you make any efforts to
- 13 locate it or track it down?
- 14 A. Well, my attorneys requested all the transcripts
- 15 that was available.
- 16 Q. And getting into some of those transcripts, you had
- 17 a motion hearing, a Schmerber, in front of Judge McIntosh
- 18 in May of 2012; is that correct?
- 19 A. May of 2012?
- 20 Q. Uh-huh (affirmative).
- 21 A. No, not a Schmerber hearing. A Schmerber hearing on
- 22 September the 14th, 2010.
- 23 Q. Do you remember having a motion hearing in front of
- 24 Judge McIntosh back in May of '12?
- 25 A. A motion hearing?

1 Q. Uh-huh (affirmative).

2 A. Regarding DNA?

3 Q. Yes.

4 A. A hearing? Yes.

5 Q. Do you recall Judge McIntosh warned you not to
6 represent yourself?

7 A. (No verbal response.)

8 MR. WHITMIRE: Page seven of the record, Your
9 Honor.

10 BY MR. WHITMIRE:

11 Q. Do you recall that?

12 A. Do I recall him -- Judge McIntosh proceeded on the
13 hearing without appointed counsel?

14 Q. Yes or no?

15 A. No, I don't remember that.

16 Q. Then in June 30th, 2010, do you recall Judge
17 Macaulay strongly advising you not to represent yourself?

18 A. Yes, I remember that. He didn't warn me of the
19 dangers and disadvantages of self-representation. He
20 advised me to counsel, but he didn't warn me of the
21 dangers. Faretta versus California specifically states
22 ---

23 Q. Thank you, Mr. Temple. Didn't Judge Maddox issue an
24 order that was very detailed warning you of these
25 dangers?

- 1 A. No.
- 2 Q. Never? Not at all?
- 3 A. Did he issue ---
- 4 Q. Uh-huh (affirmative), an order warning you of the
- 5 dangers of self-representation?
- 6 A. Possibly.
- 7 Q. Do you recall that Judge Maddox, in fact, said, I've
- 8 been a judge for ten years, and I wouldn't represent
- 9 myself at trial?
- 10 A. No, I don't remember that specifically.
- 11 Q. Do you recall Judge Maddox gave you the option
- 12 either keep Mr. Tavernier on your case, proceed pro se or
- 13 retain another attorney? Do you recall that?
- 14 A. After a attorney threatened to kill my family and
- 15 me, why would I want to keep a attorney who threatened to
- 16 kill -- it's on the record.
- 17 Q. And you filed that complaint to ADC; correct?
- 18 A. This is on the record.
- 19 Q. Okay. Yes or no, Mr. Temple? You filed that
- 20 complaint to ADC?
- 21 A. Yes, sir.
- 22 Q. Regarding Mr. Tavernier?
- 23 A. That's right. I filed it with the Supreme Court,
- 24 South Carolina Administration.
- 25 Q. Now, do you recall Judge Maddox saying that that

1 complaint had absolutely no valid basis?

2 A. No. He never said that.

3 Q. Not at all?

4 A. Well, he said that it was un -- he said it was not
5 true, but Judge Maddox was not a witness to the
6 occurrence. He was not a witness. So, therefore, his
7 statement is really allegations.

8 Q. Specifically, though, he heard that motion that you
9 made pro se; correct?

10 A. I don't understand what it is that you are saying.

11 Q. You brought that issue regarding Mr. Tavernier, the
12 alleged -- that he supposedly had threatened your family.
13 You brought that to Judge Maddox's attention, didn't you?

14 A. Right. He threatened to kill me and my family if I
15 didn't plead guilty to the charges. Yes, he did. And I
16 -- and I -- a hearing was held in regards to it, and
17 Judge Maddox relieved him as my counselor for the very
18 fact. The two prior attorneys was relieved for lying to
19 me and -- what they did was they -- we would talk about
20 situations, and they would talk about what we talked
21 about in our conferences, which was a breach of
22 confidentiality and lying to a client. Which also Judge
23 Maddox relieved them too first. So clearly, I was never
24 even presented -- an attorney that's -- that -- who
25 exhibited those type of behavior or remarks towards a

1 client is not an effective attorney. It was not
2 effective. I was never offered an attorney because of
3 those facts that they made those allegations or made
4 those statements and lied to me several times. Sarah
5 Drawdy telling me that a change of venue is something you
6 ask for during a trial and not during ---

7 THE COURT: Mr. Temple, that's enough on that
8 issue. I'm sorry to interrupt.

9 THE WITNESS: Okay.

10 THE COURT: Go ahead.

11 BY MR. WHITMIRE:

12 Q. Mr. Temple, your appellate counsel brought this
13 issue regarding your self-representation to the Court of
14 Appeals; is that correct?

15 A. Excuse me, sir?

16 Q. Your appellate counsel brought this issue to the
17 Court of Appeals regarding your self-representation?

18 A. Yes. Well, no. She brought it to the court's
19 attention me being forced to represent myself. It's
20 clearly on the record.

21 Q. And this was an Anders brief?

22 A. This was a -- right.

23 Q. And you filed your own issues too, didn't you?

24 A. Very limited legal skills, training, experience. No
25 strategies, no legal education.

1 Q. None whatsoever?

2 A. I've read a few books.

3 Q. Didn't you assure Judge Maddox that you had a decade
4 of legal experience?

5 A. No, sir, I never said that. I've had -- I've read
6 some books, even filed motions, but if you ---

7 Q. Didn't you tell the jury that you had eight to ten
8 years of legal experience too? I apologize. It's
9 fifteen.

10 A. No, I don't recall.

11 Q. You don't?

12 A. No, sir.

13 Q. And do you recall the police located several books
14 in that storage unit regarding self-representation?

15 A. I just mentioned books, sir.

16 Q. At one point during one of your mentions, didn't you
17 tell Judge Maddox that you had spent four months
18 preparing your opening statement?

19 A. I believe that statement itself speaks for itself,
20 that I was unskilled, untrained. Four months to prepare
21 an opening statement?

22 Q. But you were provided the option of having Mr.
23 Tavernier stay on your case?

24 A. Once again, Mr. Tavernier was not -- Mr. Tavernier
25 made threats towards me and my family.

1 Q. And Mr. Tavernier addressed those at that motion
2 hearing; is that correct?

3 A. Yes, he did.

4 Q. But the judge allowed you to, I think, quote, get
5 right with Mr. Tavernier and to reconcile?

6 A. I think that was error on the judge as well because
7 the very fact that Mr. Tavernier made those threats and
8 he tried to get us to reconcile speaks for itself, don't
9 you think?

10 MR. WHITMIRE: Your Honor, strike that
11 testimony. Move to strike the testimony as non-
12 responsive.

13 THE COURT: Granted.

14 BY MR. WHITMIRE:

15 Q. You were evaluated, too, is that correct, by Dr.
16 Frierson?

17 A. That's right.

18 Q. Dr. Frierson found your animosity or allegations
19 against your attorneys to be irrational?

20 A. He has his own opinion, sir. I cannot tell you what
21 that opinion was.

22 Q. You remember what his opinion was? Your diagnosis?

23 A. Not right offhand.

24 Q. Sociopath?

25 A. Once again, he has his own opinion. I can't take

1 his opinion away from me. From him, rather. He has his
2 own opinion.

3 Q. So let me understand this. You spent four months
4 preparing your opening statement. Then after you had
5 every judge in this entire judicial circuit warn you
6 against -- of the dangers of self-representation, you
7 asked for a continuance so you could get an attorney in
8 the middle of trial?

9 A. No, sir.

10 Q. You didn't ask for a continuance in order to get
11 counsel?

12 A. I was never warned. I was advised of my right to
13 counsel, but I was never warned of the dangers and
14 disadvantages of self-representation. Yes, I did ask for
15 a continuance.

16 Q. You filed a motion for a speedy trial before that
17 though?

18 A. The motion was filed on August the 19th, that motion
19 for a speedy trial. The solicitor specifically said in a
20 hearing before that that I had made those allegations,
21 which was unfounded, was not true. She said that the
22 reason why the trial had speeded up was by the very fact
23 that I filed that speedy trial motion, but, however, she
24 had already declared the date of the trial before I even
25 made the motion.

1 Q. For the record, is there anything else regarding Ms.
2 Carter, your appellate attorney's representation that
3 you're taking issue with today?

4 A. Yes. I also think that Ms. -- Attorney Wanda
5 Carter, she was ineffective by the very fact that she did
6 not raise a dead-bang winner in accordance to Reynolds
7 versus -- she did not raise an issue that was a dead-bang
8 winner in accordance to Reynolds versus ...

9 Q. I'm interested in what the issue is.

10 A. Banks versus Reynolds. Sir?

11 Q. Absent the case law, what is this issue?

12 A. I don't understand what you're saying.

13 Q. What is the issue that you want to raise? Just
14 speak it. Tell it.

15 A. In reference to appellate counsel?

16 Q. Uh-huh (affirmative).

17 A. She just didn't -- she didn't raise -- she didn't
18 raise the a dead-bang winner according to Banks versus
19 Reynolds.

20 Q. Which is?

21 A. An issue that would get the conviction and sentence
22 overturned. I know she's required to come through and
23 ---

24 MR. WHITMIRE: Your Honor, direct the witness,
25 -- motion to direct the witness to answer the question.

1 A. Which is ---

2 THE COURT: Hold on, Mr. Temple. The way this
3 works is he asks you a question, and you just respond
4 just to the question. Try and answer his question. If
5 you do not know the answer to his question, you can say
6 you do not know the answer.

7 THE WITNESS: Yes, sir. Yes, sir.

8 THE COURT: Mr. Whitmire?

9 MR. WHITMIRE: Thank you, Your Honor.

10 THE COURT: Yes, sir.

11 THE WITNESS: THE question again?

12 BY MR. WHITMIRE:

13 Q. What is this dead-bang winner issue that you speak
14 of?

15 A. (No verbal response)

16 Q. I'm just trying to understand your allegations.

17 A. It would be the affidavits, the arrest warrant. The
18 supporting affidavit and the arrest warrant.

19 Q. But you raised it yourself?

20 A. Yes, I raised it, but I didn't raise it with the
21 skills and knowledge and education of a legal counsel.

22 Q. Thank you, Mr. Temple.

23 MR. WHITMIRE: I beg the Court's indulgence.

24 THE COURT: Take your time, Mr. Whitmire.

25 MR. WHITMIRE: No further questions, Your

1 Honor.

2 THE COURT: Anything on redirect, Mr. Welborn?

3 MR. WELBORN: No, Your Honor.

4 THE COURT: You may step down, Mr. Temple.

5 MR. WELBORN: Your Honor, that is Mr. Temple's
6 case.

7 THE COURT: Okay. Thank you, sir.

8 Mr. Whitmire, anything on behalf of the State?

9 MR. WHITMIRE: The State renews its motion for
10 summary judgment. The only allegation that's viable in
11 this forum, again, Your Honor, is ineffective assistance
12 of appellate counsel. He raises one claim based on
13 entire speculation regarding the mysterious transcript, a
14 motion transcript, that doesn't exist. Has not produced
15 this transcript. Has not met his burden.

16 The second allegation, Your Honor, is concerning the
17 indictments, arrest warrants he raises himself. They
18 were brought to the Court's attention. It is barred by
19 claim preclusion. The rest of his concerns, the State
20 has addressed in its return and motion to dismiss.

21 And, Your Honor, for the record, addressing his
22 untimely filed return, Respondent/State has never
23 received a notice from his attorney regarding the motion
24 pursuant to Rule 11. Anything now discussed would be
25 moot concerning -- considering the return motion to

1 dismiss had been timely filed. He has been provided
2 counsel and a hearing within, I believe, eight or nine
3 months of filing an application for post-conviction
4 relief, a time line which is exceptional considering some
5 of the backlog in this state.

6 Thank you, Your Honor.

7 THE COURT: Thank you, sir.

8 Mr. Welborn, any response to his motion?

9 MR. WELBORN: Can the Court bear with me?

10 THE COURT: Yes, sir.

11 MR. WELBORN: Your Honor, my client would ask
12 that any of the exhibits that were previously labeled
13 Exhibits 1 through 23 in his trial before Judge Maddox
14 and McIntosh -- and they're all marked. They're all part
15 of the transcript. He would ask that that be a part of
16 the court record. I've explained to him it already is.

17 THE COURT: Okay.

18 And Mr. Temple, they are part of the record already.
19 I have them before me. Anything ...

20 Mr. Welborn, any response to the State's motion to
21 dismiss?

22 MR. WELBORN: Your Honor, we would oppose it.
23 I think my client has been very forthcoming and clear
24 about his motion -- why that motion should not be
25 granted, and I'd ask the Court to rule in my client's

1 favor and grant him post-conviction relief for all the
2 reasons we previously placed on the record.

3 THE COURT: Thank you, sir. Appreciate that.

4 All right. Mr. Temple, what I'm doing is I'm
5 granting the State's motion to dismiss. The record is
6 replete with the fact that you were warned about going
7 forward without counsel.

8 And I grant your motion to dismiss. Mr. Whitmire,
9 if you'd prepare the order.

10 MR. WHITMIRE: Thank you, Your Honor. I'll get
11 you a proposed order.

12 (WHEREUPON, the hearing concluded at approximately
13 2:02 p.m.)

14 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

1

CERTIFICATE OF REPORTER

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3

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9

I, the undersigned Renee H. Tollison, Official Court Reporter (retired) for the Tenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Circuit Court for Anderson County, South Carolina, on the 28th day of July 2014.

10

11

This transcript may contain quoted material. Such material is reproduced as read by the speaker.

12

13

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

14

March 8, 2017

15

16

S/ Renee H. Tollison

17

Circuit Court Reporter (Retired)

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

Dennis M. Temple.
S.C.D.C. No. 274802.

Applicant.

State of South Carolina.

Respondent.

) IN THE COURT OF COMMON PLEAS

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TENTH JUDICIAL CIRCUIT

C.A. No. 2013-CP-37-0729

ORDER OF DISMISSAL

FILED
CLERK OF COURT
OCONEE COUNTY
SOUTH CAROLINA
JUL 10 2014

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on October 15, 2013. Respondent filed its responsive pleadings on July 8, 2014. An evidentiary hearing into the matter was convened on July 28, 2014, at the Oconee County Courthouse. Applicant was present at the hearing and was represented by Hugh W. Welborn, Esquire. Respondent was represented by Walt Whitmire, Esquire, of the South Carolina Attorney General's Office.

PROCEDURAL BACKGROUND

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Oconee County. The Applicant was indicted at the September 2010 term of the Court of General Sessions for Oconee County for grand larceny, valued five-thousand dollars or more (2010-GS-37-886), kidnapping (2010-GS-37-888), and two counts of criminal sexual conduct (CSC), first-degree (2010-GS-37-887, -889). The Applicant was initially retained Robert Mills Ariel, Esq., to represent him at motion hearing regarding his bond. A hearing on the matter was convened on June 30, 2010 before the

Copies to

Att. (P) Welborn (D) Schmidt
 DSS other Temple
 Attested J. Buxton handed

C.A. No. 2013-CP-37-0729: Page 1 of 10

Honorable Alexander S. Macaulay. R. pp.11-20. Applicant insisted on self-representation for future matters. R. p.18. Out of an abundance of caution, Judge Macaulay appointed counsel. R. p.18.

Sarah Drawdy, Esq., and Keith Denny, Esq., were appointed represent him on his case. On July 29, 2010, a motion hearing was convened on Applicant's pro se motion to have his attorneys relieved from the case. R. pp.21-31. Applicant argued the motion was based on a breach of trust.¹ R. p.24. The Honorable J. Cordell Maddox, Jr., ultimately discharged Attorney Drawdy and Attorney Denny from the case and gave Applicant thirty (30) days to retain private counsel. R. p.27.

On September, 9, 2010, another motion hearing was reconvened before Judge Maddox to revisit lingering issues concerning Applicant's Sixth Amendment Right to counsel. R. pp.20-50. As a result of Applicant's wavering on the matter, Judge Maddox appointed Kurt Tavernier, Esq., as Applicant's fourth and final attorney on the case. R. p. 48. Judge Maddox issued several rulings concerning other pro se motions brought to the court by Applicant.

On September 22, 2010, a Schmerber² hearing was convened before Judge Macaulay. Applicant was present and was represented by Attorney Tavernier. R. pp.52-77. On October 21, 2010, another motion hearing was convened pursuant to Applicant's pro se motion to have Attorney Tavernier relieved before Judge Maddox. R. p. 79-110. Applicant apprised Judge Maddox that, "Mr. Tavernier has made threats against his people killing my people if I don't plead guilty." R. p.82. Judge Maddox warned Applicant on the perils of self-representation. R. pp.82-83. Applicant explained to Judge Maddox that "I have fifteen years experience in the law." R. p.84. Attorney Tavernier apprised Judge Maddox that the allegation was entirely false

¹ Applicant was unable to articulate the basis other than he was generally unhappy in the manner his attorneys were proceeding with his case.

² Schmerber v. California, 384 U.S. 757 (1966).

and based upon Applicant's ulterior disappointment in Attorney Tavernier's decision not to raise frivolous arguments and objections. R. pp.85-86. Judge Maddox ruled that he would not appoint a fifth attorney to Applicant's case. Judge Maddox commented, "you're welcome to hire a lawyer or you're welcome to represent yourself, or you could have Mr. Tavernier who I've appointed for you." R. p.89. On November 15, 2010, Judge Maddox issued an order titled "Amended Order Appointing Standby counsel" on November 8, 2010. R. pp.111-18.

On December 7, 2010 a final pre-trial motions hearing was convened before Judge Maddox to conclude all substantive preliminary matters. Applicant was present and proceeded pro se with Attorney Tavernier as "advisory counsel." R. pp.119-210. Judge Maddox continued to warn Applicant of the inherent risks of self-representation and apprised Applicant that he would be responsible for understanding to the Rules of Evidence, required court-room decorum, and error preservation. R. p.131; p.134; p.145. During the course of the hearing, Judge Maddox commented that "I've gone over exhaustively your right to counsel." R. p.202. Based on exhaustive inquiries regarding Applicant's Sixth Amendment rights, he made the final determination to proceed to trial pro se with the assistance of Attorney Tavernier as advisory counsel. R. p.204. Applicant apprised Judge Maddox that he had been representing himself from the beginning of his case that he was comfortable proceeding to trial pro se. R. p.202.

On December 13, 2010, the State called its case to trial. Applicant was present and proceeded pro se with Attorney Tavernier as advisory-counsel. R. pp.211-657. On December 15, 2010, after fifteen minutes of jury deliberations, Applicant was found guilty as indicted. R. p.657. Judge Maddox sentenced Applicant to a term of thirty (30) years imprisonment for CSC, first-degree (-887), a term of thirty (30) years imprisonment for CSC, first-degree (-889), a term of thirty (30) years imprisonment for kidnapping (-888), and a term of ten (10) years

imprisonment for grand larceny, greater than \$5,000. All sentences were to be served consecutively for an aggregate term of 100 (one-hundred) years imprisonment.

A timely Notice of Appeal was filed on the Applicant's behalf and an appeal was perfected by Wanda H. Carter, Esq., of the Office of Appellate Defense, pursuant to Anders v. California³ on September 29, 2012. Appellate counsel Carter raised the issue that the trial judge erred in denying Applicant's request for counsel in the middle of trial because the trial judge's prior waiver colloquy on the matter was insufficient pursuant to Faretta v. California⁴. FBOA pp.1-10. Applicant additionally filed a seventy-eight page pro se brief on October 29, 2012 to the South Carolina Court of appeals where he raised the two following issues:

1. "Did the judge err when he failed to suppress the evidence obtained from the arrest warrants that was issued upon a supporting affidavit that did not link Appellant to the criminal activity or storage unit #193, and failed to link the storage unit #193 to Appellant." Pro Se FBOA pp.1-12.
2. "Did the state commit perjury upon the court when it contended that this case was fast-tracked due to appellant's speedy trial motion." Pro Se FBOA pp.13-16.

The Court of Appeals dismissed the appeal. State v. Temple, No. 2013-UP-350 (filed September 11, 2013). The Remittitur was issued on September 27, 2013.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony and evidence presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court reviewed the Clerk of Court records regarding the prior PCR proceedings, the subject convictions, Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, the transcripts and documents from the prior proceedings, and the legal arguments of counsel. Pursuant to S.C.

³ Anders v. California, 386 U.S. 738 (1967)

⁴ Faretta v. California, 422 U.S. 806 (1975).

Code Ann. §17-27-80 (2016), this Court makes the following findings of fact and conclusions of law based upon all of the probative evidence presented.

Ineffective Assistance of Appellate Counsel

Applicant alleged that his appellate counsel was ineffective for failing to submit the preliminary hearing transcript as part of the record on appeal; failing to argue that there was no probable cause to issue an arrest warrant; and failing to argue he did not freely and voluntarily waive the right to counsel. The State moved for summary dismissal on this allegation. This Court finds summary judgment is appropriate and grants the State's motion.

Under Rule 56, SCRPC, a party is entitled to a judgment as a matter of law if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact. Law v. South Carolina Dept. of Corrections, 368 S.C. 424, 434, 629 S.E.2d 642, 648 (2006). In determining whether any triable issues of fact exist for summary judgment purposes, the evidence and all the inferences which can be reasonably drawn from the evidence must be viewed in the light most favorable to the nonmoving party. Fleming v. Rose, 350 S.C. 488, 493-94, 567 S.E.2d 857, 860 (2002).

This Court first notes that in spite of Applicant's belief concerning the strength of the omitted arguments, his appeal was submitted pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967). Where appellate counsel submits an Anders brief, the role of the appellate court is to review the brief submitted by counsel, any *pro se* response submitted by the appellant, and the record on appeal to determine whether the appeal contains any issues of arguable merit. State v. Lyles, 381 S.C. 442, 444, 673 S.E.2d 811, 813 (2009) (citing State v. Williams, 305 S.C. 116, 406 S.E.2d 357 (1991)). If an issue is found which has arguable merit, the appellate court

will direct the parties to file merit briefs, and the case will proceed under the normal appellate process. Id. On the other hand, if no issues of arguable merit are found by the appellate court, the appeal is dismissed, and the appellant's counsel is relieved. Id. Applicant's appeal was dismissed after review pursuant to Anders, reflecting that "the appellate court was unable to ascertain a non-frivolous issue which would require counsel to file a merits brief." Id.

In this case, Applicant alleged his appellate counsel was ineffective for failing to argue that his arrest warrant was not supported by probable cause. This issue was raised in Applicant's *pro se* brief on direct appeal, and therefore considered and determined to be without merit by the appellate court pursuant to Anders. Applicant's allegation that appellate counsel was ineffective for failing to include the transcript from his preliminary hearing in the record is an extension of this argument. Applicant has failed to raise or argue any conceivable prejudice from the fact that this transcript was omitted, particularly in light of the lower court record.⁵

Applicant has also alleged that his appellate counsel was ineffective for failing to argue that he was forced to represent himself. There is no factual basis for this claim – the issue was raised by appellate counsel in its Anders brief. Had the issue been meritorious, then the appellate court would have ordered a brief on the merits. As discussed above, the record is replete with discussions concerning the dangers of self-representation. This Court is of the firm opinion that the Applicant waived his right to counsel with his eyes wide open and in compliance with Faretta. Because Applicant has failed to raise any meritorious arguments that his appellate counsel omitted, this allegation is summarily denied and dismissed.

⁵ The record clearly establishes that Applicant's arrest was supported by probable cause. Following a hearing on May 20, 2012, after hearing testimony that the victim identified the Applicant in a photo-lineup and that the assault took place in the Applicant's storage unit, the presiding judge determined that there was probable cause to believe he committed the assault. R. p. 5-7. In any event, the Applicant's subsequent indictment by the Grand Jury cures any deficiencies in the arrest warrant. R. p. 684-91; see Thompson v. State, 251 S.C. 593, 596, 164 S.E.2d 760, 761 (1968).

Res Judicata

Applicant has also raised the following allegations:

1. "Applicant, Dennis Maurice Temple was arrested and detained at the Oconee County Detention Center on arrest arrests that was issued upon a supporting affidavit or sworn written statement of the alleged victim that (1) was completely void of facts connecting Applicant to criminal activity, (2). There was no facts connecting applicant to the storage unit #193, (3). There was no facts connecting storage unit #193 to any criminal activity, (4). There was no facts under by the alleged victim stating the applicant was identified as the accused, (5). There was no mentioning of the applicant in the affidavit or sworn written statement of the alleged victim, (6) arrest warrants were issued upon facts never sworn too, (7). There was no probable cause to arrest." APCR p.11; further more redundantly repeated in allegations (b), (f), (g), (h). & (m) on APCR p.12; pp.14-15; p.17.
2. "Applicant was coerced to represent himself during trial." APCR p.12

This Court agrees with the state that these allegations are procedurally barred by *res judicata*. *Res judicata* prohibits subsequent actions by the same parties on the same issues. Bell v. Bennett, 307 S.C. 286, 414 S.E.2d 786 (Ct. App. 1992). A final judgment on the merits in a prior action bars subsequent consideration of those issues in a new action. Foran v. USAA Casualty Ins. Co., 311 S.C. 189, 427 S.E.2d 918 (Ct. App. 1993). *Res judicata* also bars any issues that could have been raised in the former action. Id. This application presents allegations that could have been and were in fact raised in those prior collateral proceedings. In Appellate counsel's Anders brief, she presented an issue concerning Applicant's self-representation to the Court of Appeals. The Court subsequently dismissed Applicant's appeal. Therefore, the issue has been raised and ruled upon. This Court will not revisit those rulings.

Subsequent to Appellate counsel perfecting Applicant's appeal pursuant to Anders on September 28, 2012 and motion to be relieved as Applicant's appellate attorney, he filed a pro se brief and presented an issue concerning the admissibility of evidence obtained from the search warrant to the Court of Appeals. The matter was properly raised by Applicant at that juncture

and was considered by the Court of Appeals. Similarly, *res judicata* bars further litigation on that matter. Therefore, summary dismissal is appropriate.

Direct Appeal Issues

The remainder of Applicant's allegations are direct appeal issues that are procedurally barred direct by S.C. Code Ann. § 17-27-20(b) (2003).

1. "indictments were not issued within 90 days." **APCR p.12.**
2. "The six man photo lineup of the applicant and five other black was assemble and shaded in a unduly and suggestive way, that gave way to irreparable misidentification and (2) the trial court judge failed to make specific findings of facts to mixed questions of law before its ruling in suppression hearing on the photo lineup. **APCR pp.13-14.**
3. "once the state presented its case against applicant during trial, the applicant was denied by judge to present witnesses for his defense." **Application for Post-Conviction Relief 'APCR' p.16.**
4. "The State failed to disclose photos of the alleged victim, her car, state witnesses names who testified during trial and a photo of the applicant which was used during trial to convict the applicant. In addition, the State further failed to disclose other materials in it's possession or control to the applicant which would have contradicted the state's claims or cleared the defendant of blame. **APCR pp.15-16.**
5. "one of the initial jurors started making comments about the case before the case was submitted to the jury for deliberation and was replaced by one of the two alternates, The record is void of these transactions and occurrences." **APCR p.16.**
6. "Trial Judge and solicitor leading the state witness on what to testify to or say on cross examination." **APCR p.17.**

Post-conviction relief is not a substitute for an appeal.⁶ Simmons v. State, 264 S.C. 417. 423, 215 S.E.2d 883, 885 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on appeal. Drayton v. Evatt, 312 S.C. 4, 8, 430 S.E.2d 517. 520 (1993). Summary dismissal is therefore appropriate.

⁶ Regardless, as discussed above, the record in Applicant's case has been thoroughly reviewed by the Court of Appeals and no meritorious issues were discovered.

Applicant's Motion for Summary Judgment

The Applicant also moved for summary judgment on the ground that the Attorney General's Office did not file its Return in a timely manner, and failed to respond to his summary judgment motion. This motion is denied. Applicant has failed to show or allege any prejudice from Respondent's delay. See Kneece v. State, 269 S.C. 177, 178, 236 S.E.2d 746, 747 (1977).

All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this order, the Court finds Applicant failed to present any evidence regarding such allegations. Accordingly, the Court finds Applicant has abandoned any such allegations.

[Signature follows]

CONCLUSION

Based on the foregoing, this Court finds that the Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notes that Applicant must file and serve a notice of intent to appeal within thirty (30) days from receipt of this Order to secure the appropriate appellate review. See Rule 203, SCACR, Rule 71.1(g), SCRPC; Bray v. State, 336 S.C. 137, 620 S.E.2d 743 (2005), for the obligation of Applicant's counsel to file and serve notice of appeal. The Applicant's attention is also directed to South Carolina Appellate Court Rule 243 for appropriate procedures after notice has been timely filed.

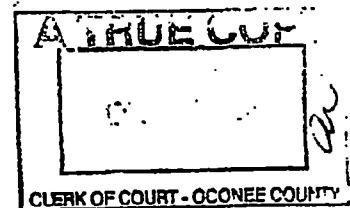
IT IS THEREFORE ORDERED

1. That the Application for Post-Conviction Relief ~~must~~ ^{*is*, and hereby is,} be denied and dismissed with prejudice; and
2. Applicant ~~must~~ ^{*is*, and hereby is,} be remanded to the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 24th day of October, 2016.


EDGAR W. DICKSON
Presiding Judge
Tenth Judicial Circuit

Orangeburg, South Carolina



WITNESSES

ARONLD, SCOTT, Oconee Co Sheriff's Dept.

Dustin Ward

ARREST WARRANT NUMBER

N136670

ACTION OF GRAND JURY

*Chris Cobb**True Bill*Foreperson of Grand Jury
Date: *9-7-10*

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2010GS37 00889

The State of South Carolina

County of Oconee

COURT OF GENERAL SESSIONS

SEP 07 2010

Term

THE STATE

vs.

Dennis Maurice Temple

LSS

Indictment for

CRIMINAL SEXUAL CONDUCT - FIRST DEGREE

SC Code: 16-03-0652
CDR Code: 0160FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT

2010 SEP -7 P 3:11

ENTERED
00889
COMPUTER

684

STATE OF SOUTH CAROLINA)
COUNTY OF Oconee)

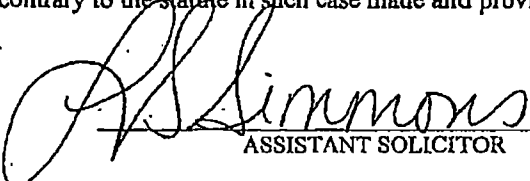
INDICTMENT

At a Court of General Sessions, convened on SEP 07 2010, the Grand Jurors of
Oconee County present upon their oath:

CRIMINAL SEXUAL CONDUCT - FIRST DEGREE

That Dennis Maurice Temple did in Oconee; on or about May 9, 2010, engage in a sexual battery with C.M. [REDACTED] accompanied by the following circumstance(s): the Defendant did vaginally penetrate the victim with his penis and he did use aggravated force to accomplish the sexual battery and/or the victim submitted to sexual battery under circumstances where she was also the victim of forcible confinement or kidnapping, or any other similar offense of act. This is in violation of 16-3-652 of the South Carolina Code of Laws (1976) as amended:

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

WITNESSES

ARONLD, SCOTT, Oconee Co Sheriff's Dept.

Justin Ward

ARREST WARRANT NUMBER

DIAN136670

ACTION OF GRAND JURY

*Chair Bill**True Bill*

Foreperson of Grand Jury

Date: *9-7-10*

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2010GS37 00887

The State of South Carolina

County of Oconee

COURT OF GENERAL SESSIONS

SEP. 07 2010

Term

THE STATE

vs.

Dennis Maurice Temple

LSS

Indictment for

Criminal Sexual Conduct - First Degree

SC Code: 16-03-0652

CDR Code: 0160

FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT

2010 SEP -7. P 3:11

FILED
SEP 7 2010
CLERK OF COURT

686

STATE OF SOUTH CAROLINA)
COUNTY OF Oconee)

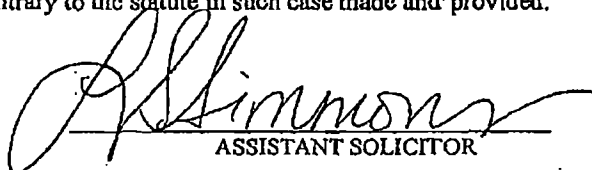
INDICTMENT

At a Court of General Sessions, convened on SEP 07 2010, the Grand Jurors of
Oconee County present upon their oath:

CRIMINAL SEXUAL CONDUCT - FIRST DEGREE

That Dennis Maurice Temple did in Oconee, on or about May 9, 2010, engage in sexual battery with C.M. [REDACTED], accompanied by the following circumstance(s): the Defendant did penetrate the victim's vagina with an object (plastic bottle) and he did use aggravated force to accomplish the sexual battery and/or the victim submitted to sexual battery under circumstances where she was also the victim of forcible confinement or kidnapping, or any other similar offense or act. This is in violation of 16-3-652 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

WITNESSES

ARONLD, SCOTT, Oconee Co Sheriff's Dept.

Justin Ward

ARREST WARRANT NUMBER

N136669

ACTION OF GRAND JURY

*Chris Dill**True Bill*Foreperson of Grand Jury.
Date: *9-7-10*

VERDICT

Foreperson of Petit Jury
Date:DOCKET NO. 2010C-37 **00888**

The State of South Carolina

County of Oconee

COURT OF GENERAL SESSIONS

SEP 07 2010

Term

THE STATE

vs.

Dennis Maurice Temple

LSS

Indictment for

KIDNAPPING

SC Code: 16-03-0910
CDR Code: 0095FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT

2010 SEP -7 P 3:11

ENTERED
303
COMPUTER

STATE OF SOUTH CAROLINA)
COUNTY OF Oconee)

INDICTMENT

At a Court of General Sessions, convened on SEP 07 2010 the Grand Jurors of
Oconee County present upon their oath:

KIDNAPPING

That Dennis Maurice Temple did in Oconee County, on or about May 9, 2010,
unlawfully seize, abduct, confine, inveigle, decoy, kidnap, abduct, or carry away C.M.,
without the authority of law. This is in violation of §16-3-0910 of the South Carolina
Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

691

WITNESSES

ARONLD, SCOTT, Oconee Co Sheriff's Dept.

Justin White

ARREST WARRANT NUMBER

N136668

ACTION OF GRAND JURY

Chad Bell

True Bill

Foreperson of Grand Jury

Date: *9-7-10*

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2010GS37 00886

The State of South Carolina

County of Oconee

COURT OF GENERAL SESSIONS

SEP 07 2010

Term

THE STATE

vs.

Dennis Maurice Temple

LSS

Indictment for

GRAND LARCENY, VALUE OF \$5,000 OR MORE

SC Code: 16-13-0030(B)(2)

CDR Code: 0479

FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT

2010 SEP -1 P 3:11

006

ENTERED
SEP 7 2010
CLERK

690

STATE OF SOUTH CAROLINA)
COUNTY OF Oconee)

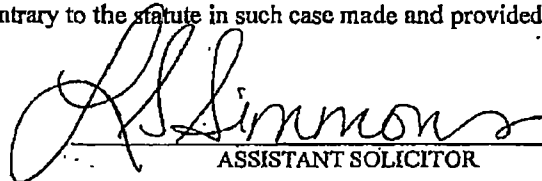
INDICTMENT

At a Court of General Sessions, convened on SEP 07 2010 the Grand Jurors of Oconee County present upon their oath:

GRAND LARCENY, VALUE OF \$5,000 OR MORE

That Dennis Maurice Temple did in Oconee County, on or about May 9, 2010, feloniously take and carry away the personal property of C.M. (), valued at more than \$5000, described as follows: 2008 Honda Accord, with intent to deprive the owner permanently of such property. This is in violation of §16-13-30(B)(2) of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR